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No. 72-8002
IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

RONALD BRADLEY, et al,
Plaintiffs-Appellees,
v.
WILLIAM G. MILLIKEN, et al,
Defendants-Appellants,
and
DETROIT FEDERATION OF TEACHERS, LOCAL 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO,
Defendant-Intervenor,
and
DENISE MAGDOWSKI, et al,
Defendants-Intervenors,
and
ALLEN PARK PUBLIC SCHOOLS, et al,
Defendants-Intervenors.

RELEVANT DOCKET ENTRIES

1970

Aug. 19 Complaint

Aug. 26 Answer to Complaint on Behalf of Defendants The Board of Education of the City of Detroit; Patrick A. McDonald; James A. Hathaway; Cornelius L. Golightly and Norman Drachler

Sept. 3 Rulings on: Application for Preliminary Injunction; Motion to Intervene; Motion to Dismiss as to Defendants Milliken and Kelley

Sept 9	Order Denying Plaintiffs' Application for Preliminary Injunction and Granting Defendants' Motion to Dismiss as to Defendants Milliken and Kelley
Oct. 13	Answer to Complaint on Behalf of Defendants, William G. Milliken, Governor of the State of Michigan, Frank J. Kelley, Attorney General of the State of Michigan, Michigan State Board of Education and John W. Porter, Acting Superintendent of Public Instruction
Nov. 4	Order Granting Motion of Detroit Federation of Teachers Local 231, AFT, AFL-CIO, to Intervene as Party Defendant
Nov. 6	Order of Judge Roth-Implementation
Nov. 9	Pre-Trial Statement of Intervening Defendant
Nov. 12	Pre-Trial Statement of State Defendants
Nov. 16	Pre-Trial Statement of Plaintiffs
Nov. 17	Pre-Trial Statement of Board of Education of City of Detroit
Dec. 3	Ruling on Motion for Continuance
Dec. 3	Plaintiffs' Notice of Appeal
Dec. 3	Ruling on School Plans Submitted
Dec. 3	Order of December 3, 1970
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Feb. 16	Class Action Order
Feb. 16	Ruling on Motion; Ruling on Standing of Plaintiffs

Feb. 16	Supplemental Pre-Trial Order
Mar. 26	Joint Pre-Trial Statement
May 21	Motion to Dismiss on Behalf of Defendants William G. Milliken, Governor of the State of Michigan, and Frank J. Kelley, Attorney General of the State of Michigan
May 21	Motion to Dismiss on Behalf of Defendants Michigan State Board of Education and John W. Porter, Superintendent of Public Instruction
June 8	Ruling and Order on Motion for Construction Injunction Pendente Lite
June 9	Amended Ruling and Order on Motion for Construction Injunction Pendente Lite
June 17	Motion To Join Additional Parties Defendant
June 25	Order Denying Motion
July	Plaintiffs' Findings of Fact and Conclusions of Law
Sept. 27	Ruling on Issue of Segregation
Oct. 4	Colloquy of Court and Counsel, October 4, 1971
Nov. 5	Order of November 5, 1971
Nov. 5	Magnet School Progress Report
Nov. 5	Order and Letter to all Counsel – Submission of Plans
Nov. 15	Plaintiffs Response to Defendant Detroit Board's Report on the Magnet School Program

1971

Nov. 15 Motion of Councel for Board of Education of School District of the City of Detroit, for permission to withdraw with supporting affidavit and brief, filed. Hearing Nov. 22/71.

Dec. 2 Motion to Intervene with proposed answers, counter-claim and cross-complaint of defts. Intervenor Kerry and Colleen Green, et al., with brief and exhibits, filed. Hearing Jan. 31/72.

Dec. 3 Compliance of Detroit School Board with Court order of Nov. 5/71 with proof of service and certification, filed. (also request for hearing)

Dec. 6 Consent order for substitution of attorneys Robert E. Manley and John S. Wirthlin of Beirne, Wirthlin & Manley of Cincinnati, Ohio and George T. Roumell, Jr. and Louis D. Beer of Riley and Roumell of Detroit, Mich. for George E. Bushnell, Jr. etc. filed and entered. (Detroit City Board of Education. Roth, J.)

1972

Feb. 2 Motion to Modify Construction Injunction Pendente Lite – Detroit Board of Education

Feb. 4 Metropolitan Desegregation Plans Submitted On Behalf of the State Board of Education.

Feb. 7 Order (for Modification of construction pendente lite)

Feb. 10 Motion of Grosse Pointe Public School System to intervene with brief, proposed answer and proof of service, filed.

Feb. 14 Notice of hearing on motions to intervene, Feb. 22/72, filed.

Feb. 17 Motion of Southfield Public Schools to intervene filed. Hearing Feb. 22/72.

Feb. 17 Motion as to Allen Park Public Schools, et al. (40 School Districts) to intervene with brief and proposed answer, filed. Hearing Feb. 22/72 (dated Feb. 16/72).

Feb. 18 Motion of Royal Oak School District, etc. to intervene (Rule 24) with affidavit, filed. Hearing Feb. 22/72.

Feb. 22 Response of defts. Board of Education of City of Detroit et al., to motions to intervene filed.

Feb. 22 Motions to intervene heard and held in abeyance; hearing on school board plan and N.A.A.C.P. Plan for Detroit set for Mar. 14/72 at 9:30 a.m., ptfs motion for defts. to fleshout plans held in abeyance, Roth, J.

Mar. 1 Objections of Board of Education for City of Detroit and other Defendants to Metropolitan Plan Submitted by State of Michigan and by way of Alternative, a Submission herein by said Board of a Metropolitan Detroit Area Integration Plan

Mar. 6 Notice to Counsel

Mar. 7 Court's notice of hearing on desegregation Mar. 14/72, tentatively hearing on metropolitan remedy Mar. 28/72, filed (dated Mar. 6/72). Roth, J.

Mar. 7 Court's notice of rulings on applications for intervention Mar. 15/72, filed. (dated Mar. 6/72)

Mar. 13 Objections of Board of Education for City of Detroit and other Defendants to the Alleged Plan of Desegregation Filed by Plaintiffs

Mar. 14 Letter of Southfield Public Schools re: intervention, filed.

Mar. 14 Letter of Grosse Pte Public School re: intervention, filed.

Mar. 14 Hearing held on desegregation intra-city plan – testimony taken – adj. to Mar. 15/72, Roth, J.

Mar. 15 Ruling and order on petitions for intervention (see order) filed and entered. Roth J. (intervention granted as to Allen Park Public Schools, et al. Grosse Pointe Public Schools, School District of City of Royal Oak, Southfield Public Schools, Kerry Green, et al., Tri-County Citizens and denied as to City of Warren, Nancy Bird, et al., & Professional Personnel of Van Dyke)

Mar. 15 Hearing resumed on desegregation intra-city plan – testimony taken – adj. to Mar. 16/72. Roth, J.

Mar. 16 Hearing resumed on desegregation intra-city plan – testimony taken – adj. to Mar. 17/72. Roth, J.

Mar. 17 Hearing resumed on desegregation intra-city plan – testimony taken – adj. to Mar. 21/72. Roth, J.

Mar. 21 Hearing resumed on desegregation intra-city plan – testimony taken – matter taken under advisement. Roth, J.

Mar. 21 Objections to Conditions Placed on Intervenors by Ruling and Order on Petitions for Intervention, March 15, 1972

Mar. 21 Request by defts. Intervenor Tri-County Citizens for concurrence of counsel to contemplated motion to recall interlocutory order or, in the alternative to contemplated application for leave to file such motion with brief, filed.

Mar. 22 Objections of Grosse Pointe Schools to Conditions on Intervention by Ruling and Order Dated March 15, 1972

Mar. 22 Objections of Grosse Pointe Schools to conditions of intervention by ruling and order dated Mar.15/72, with exhibit, filed.

Mar. 23 Application for Leave to Intervene

Mar. 24 Plaintiffs' Proposed Finding, Conclusions and Order on Detroit–Only Desegregation Plans

Mar. 24 Ruling on Propriety of Considering a Metropolitan Remedy to Accomplish Desegregation of the Public Schools of the City of Detroit

Mar. 27 Defendant Detroit Board of Education and Other Defendants Propose Findings of Fact and Conclusions of Law Following Hearings on Detroit Only Remedy

Mar. 28 Finding of Fact and Conclusions of Law on Detroit-Only Plans of Desegregation

Apr. 4 Objections of Southfield Public Schools to Conditions on Intervention

Apr. 4 Objections of Southfield Public Schools to conditions on intervention, filed, (with exhibit)

Apr. 4 Hearing on metropolitan remedy heard and cont'd to Apr. 6/72. Roth, J.

Apr. 5 Hearing on metropolitan remedy heard and adj. to Apr. 6/72. Roth, J.

Apr. 6 Hearing on metropolitan remedy heard and adj. to Apr. 7/72. Roth, J.

Apr. 7 Hearing on metropolitan remedy heard and adj. to Apr. 11/72. Roth, J.

Apr. 10 Offer of Proof by Southfield Public Schools

Apr. 10 Civil Subpoena to Charles Wells, dated April 10, 1972

Apr. 11 Motion to Require Purchase of Transportation Equipment

Apr. 11 Cont'd. hearing on desegregation – adj. to Apr. 12/72.

Apr. 12 Cont'd hearing on desegregation – adj. to Apr. 13/72. Roth, J.

Apr. 12 Proof of Service, filed.

Apr. 14 Notice of hearing for May 8/72, on govt's application to intervene, etc with proof of service, filed

Apr. 14 Answer in Opposition to Plaintiffs' Motion to Require Purchase of Transportation Equipment

Apr. 14 Memorandum in Opposition .to Motion to Require Purchase of Transportation Equipment

Apr. 19 Notice of hearing for May 9/72, on application for leave to intervene and motion to defer further proceedings, filed.

Apr. 28 Survey and Evaluation of Existing School Transportation Facilities

May 4 Affidavit of Grosse Pointe Schools Re: School District Boundary Lines and Transportation Facilities

May 4 Objections by Defendants–Intervenor Kerry Green, et al, To Testimony and Exhibits Concerning Metropolitan Remedy

May 9 Hearing on govt's motion to intervene and to defer proceedings heard and denied; gov't may enter as Amicus Curiae. Roth, J.

June 14 Findings of Fact and Conclusions of Law in Support of Ruling on Desegregation Area and Development of Plan

June 14 Rulings on Desegregation Area and Order for Development of Plan of Desegregation

June 23 Motion by Detroit Federation of Teachers for Injunction and/or for Supplement to Order for Development of Plan of Desegregation, Re Financing and Terminations

June 29 Rulings and Order on Motions and Other Matters Heard June 14, 1972

June 29 Motion of Detroit Board of Education for Partial Entry of Judgment

June 30 Order Modifying Order for Development of Plan of Desegregation, to Add Additional Panel Members

July 5 Recommendations of Desegregation Panel Regarding Additional Transportation Equipment Needed for the Implementation of an Interim Desegregation Plan

July 7 Preliminary Injunction

July 7 Order Denying Motion for Stay of Proceedings

July 11 Order for Acquisition of Transportation

July 11 Order Adding Defendant Allison Green

July 20 Petition for Permission to Appeal Certain Orders Involving Controlling Questions of Law as Certified by the District Judge Pursuant to 28 USC 1292(b)

July 20 Order of District Court

July 20 Order of Court of Appeals

July 24 Supplemental Order of Court of Appeals

EXHIBIT A

TEXT OF ACT 48-PUBLIC ACT OF 1970 35257

Approved by the Governor-July 7, 1970

State of Michigan-75th Legislature-Regular Session of 1970

An Act to amend the title and sections 4, 5, 6 and 7 of Act No. 244 of the Public Acts of 1969, entitled "An act to require first class school districts to be divided into regional districts and to provide for local district school boards and to define their powers and duties and the powers and duties of the first class district board," being sections 388.174, 388.175, 388.176 and 388.177 of the Compiled Laws of 1948; to add sections 1a, 2a, 3a and 8 to 13; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Section 1. The title and sections 4, 5, 6 and 7 of Act No. 244 of the Public Acts of 1969, being sections 388.174, 388.175, 388.176 and 388.177 of the Compiled Laws of 1948, are amended and sections 1a, 2a, 3a and 8 to 13 are added to read as follows:

TITLE

An act to require first class school districts to be divided into regions and to provide for regional boards and to define their powers and duties and the powers and duties of the first class district board.

Sec. 1a. On or after January 1, 1971, in any first class school district with more than 100,000 student membership, the board membership of the board of education shall be composed of 8 members determined and elected as provided in section 2a plus 5 members determined and elected as provided in section 3a.

Sec. 2a. Immediately following the effective date of this 1970 amendatory act or any date on which a school district becomes a first class school district, 8 regions shall be described in each such first class school district by resolution concurred in by three-fourths of the members elected and serving in each House of the legislature and such regions so described shall be established as regions if and when approved by the superintendent of public instruction. If a concurrent resolution shall not be approved by three-fourths of such members within 7 days of the effective date of this amendatory act or within 30 days of any date on which a school district becomes a first class school district a first class district boundary commission consisting of 3 members appointed by the governor shall determine the boundary lines of such regions within 21 days thereafter if in 1970 or within 30 days thereafter if in any later year. The members of the commission shall receive a compensation of $100.00 per diem per member from the funds appropriated to the department of education. The boundary lines of such regions shall be redetermined by the respective boards of such first class school districts following each federal decennial census but in no event later than April 15 of the first odd numbered year in which regional board members are to be elected following the federal decennial census. In the event of the failure of such respective boards of such first class school districts to redetermine such regional boundary lines by such April 15, the state board of education shall convene within 10 days to make such redetermination and such redetermination of the state board of education shall be the regional boundary lines until the redetermination is made following the next succeeding federal decennial census as provided in this section. Regions shall be as compact, contiguous and nearly equal in population as practicable.

Within each region, there shall be a regional board consisting of 5 members. The members shall be nominated and elected by the registered and qualified electors of each district as is provided by law for the nomination and election of first class school board members except that signatures required on nominating petitions shall be not less than 500 nor more than 1,000. Any candidate properly filed for any educational position in any first class school district as of the effective date of this act shall be considered as a qualified candidate under sections 2a and 3a for the 1970 election provided such candidate makes a request, designation and selection to the election officer empowered by law to accept nominating petitions for such office. No person shall be elected who is not a resident of the region from which he is elected. The members shall be elected in the general election to be held in November, 1970 and November of 1973 and every 2 years thereafter commencing in 1975.

In the year 1970 regional board members shall be elected in the November general election and candidates for such office shall not be subject to the primary election. In 1970 a person may qualify as a candidate for the election for regional board member by filing the required number of signatures on or prior to 4 p.m., August 18, 1970. In 1970 signatures of registered electors of the first class district shall be valid without regard to the place of residence of such registered elector. In any year the candidate for regional board member receiving the highest number of votes in each region in the November general election shall be chairman of the regional board and a member of the board of education of his first class school district during his term of office. In case a vacancy occurs for any reason in the combined position of chairman of the regional board and member of the first class school district board of education, the regional board member who received the next highest number of votes in the preceding general election shall assume such combined position. The number of members of each regional board shall be maintained at 5 and vacancies shall be filled from among residents of the region by the remaining board members of such region by a majority vote of those serving. No vacancies shall be filled later than 60 days prior to a primary election at which regional board members are to be nominated. The 5 regional board members elected in each region shall commence their terms of office on January 1 following the election and the members shall serve until their successors are elected and qualified.

Sec. 3a. Effective January 1, 1971 there shall be 5 members on the boards of first class school districts elected at large. Members of such boards shall be nominated and elected at the primary and general elections of 1972 and 1974 for 3-year terms commencing on January 1 of the subsequent odd number year, 2 each to be elected in 1972 and 1974. In the year 1970 1 board member shall be elected in the November general election for a 3-year term commencing January 1, 1971 and candidates shall not be subject to the primary election. In 1970 a person may qualify as a candidate for the election for first class school district board member by filing nominating petitions containing not less than 500 nor more than 1,000 valid signatures on or before 4 p.m., August 18, 1970. Commencing in 1973 and in all subsequent odd numbered years, a number of board members equivalent to the number of members whose terms expire on December 31 of such year will be nominated and elected at the primary and general election. Such members so elected shall serve 2-year terms commencing on January 1 of the subsequent even numbered year. To accomplish the provisions of this amendatory act the terms of office of any first class district board members whose terms expire prior to December 31, 19[illegible] shall expire December 31, 19[illegible]; the terms of office of such board members whose terms expire between January 1, 19[illegible]2 and December 31, 19[illegible] shall expire December 31, 1972 and the terms of office of such board members whose terms expire between January 1, 1974 and December 31, 19[illegible] shall expire December 31, 1974.

In any year in which one or more board members of a first class district are commencing a term of office on January 1 the board of such first class district shall redetermine its selection of officers during the month of January of such year. Petitions to recall any member or members of the board of education of a first class school district filed and pending before this act becomes effective, or becomes operative in a school district that hereafter becomes a first class school district, may be withdrawn by the person or organization filing or sponsoring such recall petitions within 10 days after this act becomes effective or 20 days after the act becomes operative in any school district that hereafter becomes a first class school district. Board members of first class school districts who are recalled in accordance with law may be candidates for the same office at the next election for such office at which the recalled member is otherwise eligible. In the case of any school district that hereafter becomes a first class school district, the term of office of each of the board members then serving in such school district shall expire on the next succeeding December 31 of an odd numbered year, provided however that if the school district becomes a first class school district later than April 1 of an odd numbered year, the term of office of each of its board members shall expire on December 31 of the next succeeding odd numbered year later than the year in which the district became a first class school district. For any district becoming a first class district 5 school board members shall be elected in the general election of the odd numbered year in which such terms of office expire and the 5 school board members so elected shall commence 2-year terms on January 1 of the even numbered year following such general election.

In case a vacancy occurs for any reason on the first class district board such vacancy shall be filled by majority vote of all persons serving as regional board and first class district board members at a meeting called by the president of the first class district board for such purpose. No vacancies shall be filled later than 60 days prior to a primary election at which first class district board members are to be nominated. Vacancies which shall occur prior to the effective date of this act or have occurred in 1970, shall be filled for a term ending December 31, 1972 in the same manner as provided in this section for the election of board members at large in the year 1970 and such positions shall then be filled in the primary and general election of 1972 for a 3 year term. In 1970 the candidate receiving the highest number of votes shall be elected for the 3 year term and the candidates receiving the next highest number of votes shall be elected for 2 year terms to fill vacancies.

Sec. 4. A candidate for a regional board must be 21 years of age at the time of filing and must reside in the region in which he becomes a candidate. If his legal residence is moved from the region during his term of office, it shall constitute a vacating of office.

Sec. 5. The first class school district board shall retain all the powers and duties now possessed by a first class school district except for those given to a regional board under the provisions of this act and such other functions as are delegated to the regional boards by the first class school district board.

Sec. 6. Effective upon the commencement of its term of office, the regional board, subject to guidelines established by the first class district board, shall have the power to:

(1) Employ a superintendent for the schools in the region from a list or lists of candidates submitted by the first class district board and to discharge any such regional superintendent.

(2) Employ and discharge, assign and promote all teachers and other employees of the region and schools therein subject to review by the first class school district board, which may overrule, modify or affirm the action of the regional board.

(3) Determine the curriculum, use of educational facilities and establishment of educational and testing programs in the region and schools therein.

(4) Determine the budget for the region and schools therein based upon the allocation of funds received from the first class school district board.

Sec. 7. The rights of retirement, tenure, seniority and of any other benefits of any employee transferred to a region or schools therein from the first class district or transferred between regions shall not be abrogated, diminished or impaired.

Sec. 8. The first class school district board shall perform the following functions for the regions and schools therein:

(1) Central purchasing.

(2) Payroll.

(3) Contract negotiations for all employees, subject to the provisions of Act. No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Compiled Laws of 1948, and subject to any bargaining certification and to the provisions of any collective bargaining agreement pertaining to affected employees.

(4) Property Management and Maintenance

(5) Bonding

(6) Special education programs.

(7) Allocation of funds for capital outlay and operations for each region and schools therein.

(8) Establish or modify guidelines for the implementation of the provisions of section 6. Such guidelines shall include but not be limited to the determination and specification of each regional board's jurisdiction and may provide for regional board's jurisdiction over schools not geographically located within their respective regions.

Sec. 9. Facilities and accommodations provided by the first class school district board for regional boards shall be selected with due consideration for accessibility, economy and utilization of existing facilities. Employees assigned by the first class school district board to regional boards at the time of commencement of their functions shall be drawn, to the extent feasible, from persons employed at such time by the first class school district.

Sec. 10. Regional board members shall be paid a per diem allowance of $20.00 for each meeting of their board attended and first class district board members shall be paid a per diem allowance of $30.00 for each meeting of their board attended, but in neither case shall such payments be for meetings in excess of 52 meetings per annum. The chairman of each regional board shall be paid for up to 52 regional board meetings attended and up to 52 first class district board meetings attended.

Sec. 11. First class school districts with 100,000 student membership or more shall have the same rights for initiative petition and referendum now granted by law to second and third class districts.

Sec. 12. The implementation of any attendance provisions for the 1970-71 school year determined by any first class school district board shall be delayed pending the date of commencement of functions by the first class school district boards established under the provisions of this amendatory act but such provision shall not impair the right of any such board to determine and implement prior to such date such changes in attendance provisions as are mandated by practical necessity. In reviewing, continuing, establishing or modifying attendance

provisions the first class school district boards established under the provisions of this amendatory act shall have a policy of open enrollment and shall enable students to attend a school of preference but providing priority acceptance, insofar as practicable, in cases of insufficient school capacity, to those students residing nearest the school and to those students desiring to attend the school for participation in vocationally oriented courses or other specialized curriculum.

Sec. 13. If any portion of this act or the application thereof to any person or circumstance shall be found to be invalid by a court, such validity shall not affect the remaining portions or applications of this act which can be given effect without the invalid portion or application, and to this end this act is declared to be severable.

Section 2. Sections 1, 2 and 3 of Act No. 244 of the Public Acts of 1969, being sections 388.171, 388.172 and 388.173 of the Compiled Laws of 1948, are repealed.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor.

Act No. 244
Public Acts of 1969
Approved by Governor
August 11, 1969

STATE OF MICHIGAN

75TH LEGISLATURE

EXHIBIT-B

REGULAR SESSION OF 1969

Introduced by Senators Young, Brown and Cartwright

ENROLLED SENATE BILL No. 635

AN ACT to require first class school districts to be divided into regional districts and to provide for local district school boards and to define their powers and duties and the powers and duties of the first class district board.

The People of the State of Michigan enact:

Sec. 1. Not later than January 30, 1970, the school board of each first class district shall divide its district into not less than 7 nor more than 11 regional school districts with not more than 50,000 nor less than 25,000 students in each district.

Sec. 2. In addition to the present members of the first class board there shall be elected by the registered and qualified electors of each district to the first class board 1 member from each of the districts for a term of 4 years. The members of the first class school district board provided in section 2 to be elected by regions shall be elected in the general election to be held in November, 1970 and every fourth year thereafter for a term commencing on January 1 next following their election. The candidates shall be nominated in primary elections in the manner provided by law for the present first class school district members.

The term of office of the present first class school board members shall hereafter be 4 years. The terms of office of present first class school board members which expire June 30, 1971 are extended to January 1, 1973. The term of office of present first class school board members which expire June 30, 1973 are shortened to January 1, 1973. The 3 at large positions on the first class district school board which expire January 1, 1973 shall be filled at the general election to be held in November, 1972 for a term of 4 years. The terms of office of present first class school district board members which expire on June 30, 1975 are extended to January 1, 1977 and shall be filled at the general election to be held in November, 1976 for a term of 4 years.

Sec. 3. In each regional district there shall be elected 9 members to the regional board. No person shall be elected who is not a resident of the regional district from which he is elected. The members shall be nominated and elected by the registered and qualified electors of each district as is provided by law for the nomination and election of first class school board members except that signatures required on nominating petitions shall be not less than 500 nor more than 1,000. The members shall be elected for terms of 4 years. Except that of the members elected at the general election in 1970 the 5 members receiving the highest number of votes shall be elected for a term of 4 years and the 4 members receiving the next highest number of votes shall be elected for a term of 2 years.

Sec. 4. The first class school district board shall retain all the powers and duties now possessed by a first class school district except for those given to a regional school district board under the provisions of this act.

Sec. 5. Effective upon the commencement of its term of office, the regional school district board, subject to guidelines established by the first class district board, shall have the power to:

(1) Employ and discharge a superintendent for the regional school district from a list of candidates submitted by the district board.

(2) Employ and discharge, assign and promote all teachers and other employees of the regional school district, subject to review by the first class school district board, which may overrule, modify or affirm the action of the regional district board.

(3) Determine the curriculum, use of educational facilities and establishment of educational and testing programs in the regional school district.

(4) Determine the budget for the regional school district board upon the allocation of funds received from the first class school district board.

Sec. 6. The rights of retirement, tenure, seniority and of any other benefits of any employee transferred to a regional school district or between regional school districts from the first class district shall not be abrogated, diminished or impaired.

Sec. 7. The first class school district board shall perform the following functions for the regional school districts:

(1) Central purchasing.

(2) Payroll.

(3) Contract negotiations for all employees, subject to the provisions of Act No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Compiled Laws of 1948, and subject to any bargaining certification and to the provisions of any collective bargaining agreement pertaining to affected employees.

(4) Property management and maintenance.

(5) Bonding.

(6) Special education programs.

(7) Allocation of funds for capital outlay and operations to each regional school district.

(8) On or before November 1, 1970, establish guidelines for the implementation of the provisions of section 5.

EXHIBIT C

LAW OFFICES OF
MILLER, CANFIELD, PADDOCK AND STONE
2500 DETROIT BANK & TRUST BUILDING
DETROIT, MICHIGAN 48226

TELEPHONE (313) 963-6420
CABLE "STEN DETROIT"

March 2, 1970

A. L. Zwerdling, Esq.
President
Detroit Board of Education
5057 Woodward Avenue
Detroit, Michigan 48202

Dear Mr. Zwerdling:

The Board has asked that I formally express the legal limitations imposed upon the Detroit Board of Education in establishing district boundaries as required by Act No. 244, Public Acts of 1969 ("the Act").

First, let me observe that the Board has been knowledgeable of these limitations since the Act was first discussed, and its many hours and days of deliberations involving "decentralization" have all been undertaken within the parameters required by law. Nevertheless, this letter constitutes the first written opinion submitted to you and to your colleagues.

The limitations which the law imposes on the right of the Board of Education to exercise its discretion and judgment are three:

1. The Act itself requires that each of the subsidiary districts includes a public school population of not less than 25,000 nor more than 50,000 pupils.

2. The Constitution of the United States requires that each of these districts be substantially equal in total population so that the one-man-one-vote test may be met.

3. Above all, there is the constitutional requirement--both federal and state--that the districts to be established will be racially desegregated and not racially segregated.

As each Board Member well knows, these are the rules of law within which the Board must operate in establishing district boundary lines. Quite obviously, the hard demographic facts with which the Board must deal do not permit either quick or easy solutions.

Cordially,

George E. Bushnell, Jr.

GEBjr ccg
cc: All Board Members
Dr. Norman Drachler
Mr. Harold R. Brown
Mr. Lawrence P. Doss

EXHIBIT D

The Boundary Plan

for

SCHOOL DECENTRALIZATION IN DETROIT

...A summary of action by the Board of Education at its meeting on April 7, 1970. Prepared by the Division of School-Community Relations.

...THE HOUR OF DECISION:
8 P.M. APRIL 7, 1970...

...In one "giant step" tonight the DETROIT BOARD OF EDUCATION approved the new seven-region decentralization plan - and endorsed a change in feeder patterns from which twelve of Detroit's 22 senior high schools will draw students starting in September of 1970.

...By a vote of four to two - plus a letter of support for the move from hospitalized member DR. REMUS G. ROBINSON, the decision climaxed months of study and research on PUBLIC ACT #244 (the state legislative act of August 1969 requiring the division of the present Detroit School District).

...Hundreds of citizens packed the meeting facilities and the lobbies and halls of the Schools Center Building. Closed circuit television was set up for those who could not get into the crowded meeting room. Representatives of the newspapers, radio and television stations stayed throughout the four and one-half hour meeting. The BOARD invited comments by citizens - hearing nearly 30 - some for and many against the proposal.

...Supporting the new plan were PETER F. GRYLLS, REVEREND DARKEAU STEWART, ANDREW W. PERDUE and President A. L. ZWERDLING. Voting "no" were PATRICK A. McDONALD and JAMES A. HATHAWAY. Each presented statements explaining his stand with the exception of MEMBER GRYLLS who said his vote spoke for itself. He was also the mover of the motion for endorsement.

...SUPERINTENDENT NORMAN DRACHLER reviewed the past seven months since PUBLIC ACT #244 became law. He presented the new regional boundaries and detailed the changes in feeder patterns. He emphasized the fact that all students now attending senior high school will not be affected by any of these changes. They will remain in their present schools until graduation. He also added that any student who is enrolled in the junior high school today and who has a brother or sister who will still be in attendance at a particular senior high school in September, 1970, may enroll in that same school. Students not yet in senior high schools

will enroll in accordance with newly designated junior high school feeder patterns. The SUPERINTENDENT said that starting in September 1970 one grade per year will enter senior high school in accordance with the revised junior high school feeder pattern.

...Eighteen junior high school feeder patterns and 12 senior high schools are involved. The SUPERINTENDENT also recommended that the students of VANDENBERG and VERNOR who attend the BEAUBIEN JUNIOR HIGH SCHOOL, upon graduation from BEAUBIEN, attend FORD HIGH SCHOOL instead of MUMFORD.

...Changes in feeder patterns at the elementary and junior high levels have customarily been made at the administrative level every single year. The SUPERINTENDENT said they were included tonight because of the changes in regional school district boundaries. He said they would become effective with or without PUBLIC ACT #244.

Statements by
Superintendent and Board President
Follow

4-7-70

Statement in Behalf of Proposed Plan

Norman Drachler, Superintendent of Schools

April 7, 1970

As an educator I support the proposed plan because I believe that it is educationally, morally and, according to our attorney, legally sound. Most of the research and scholarship, both by blacks and whites that I respect, supports the view that integration, racial, religious, and economic, has a positive effect on the learning of all children in a pluralistic society.

As a student of American educational history, I recognize that the above goal has been the dream of our nation for over a century.

Local, state, and national polls assert that the majority of our people concur with the desirability of integration and believe that eventually it will be a reality in our nation. Let us, therefore, have a plan for self-renewal of our schools and our community, rather than drift in a climate of uncertainty, fear, and frustration.

I recognize that our primary objective as teachers is quality education, but to repeat, the majority of accepted research and scholarship asserts that quality education in a heterogeneous society such as ours cannot be attained to its fullest measure without integration. It is essential for white and black, for poor and rich.

This plan directly affects only our high school students. Without it each constellation will continue a growing pattern of segregated racial or economic enclaves and be concerned only with the educational welfare of its own immediate area. This proposal, however, encourages a broader community concern for educational improvement and assures greater interest and support for quality education for tens of thousands of children wherever they attend school.

Since as a people we concur with the necessity for eliminating religious, racial, and economic barriers, let us, therefore, begin with a plan, however limited it is. Let us begin where we are and move forward. America has been willing to deprive itself of billions of dollars to travel 250,000 miles in space to reach the moon. I am confident Detroiters will be willing to accept the idea of traveling one or two additional miles to school for the sake of a better education for our young people and for a better future for our city.

4-7-70

Nine public hearings have been conducted by the Board to get public reaction and recommendations. It is not difficult to understand the frustration that has gripped many in this community. The tensions obvious in our community and in our schools tempt many to retreat from the goal that the law and our moral sense have set for us. There have even been those who declare that democracy in this city won't work. Such talk is nonsense. Democracy - like this proposal - is a tool, nothing more. If we don't use it properly and effectively, this system won't work. But it won't be the system's fault - it will be ours - the Board's and every citizen of this city together.

So while we can understand and sympathize with what it is that compels some to call for segregation, or for some plan or other that insures black or white political control of our school systems, we cannot yield to it. We have heard the urgings, loud and clear, for a return to a divided society, but we cannot in conscience go along with it.

The proposal made here today will not, unhappily, by itself end the segregation of children that now exists in our school system because of the housing pattern of this city. But it will not serve to further segregate the schools, nor to freeze the pattern of segregation which already exists to such a large extent. Instead, it will make it possible for the school system to move in the direction of an integrated education.

I have detailed some of the things the new plan will do. Let me mention what it will not do

It will not automatically make the Detroit School System better. It will not help solve the problem of a big city school system which is provided with far less money per child to spend on education than other systems, which face a less serious challenge.

But it will enhance the opportunity for our senior high school students to share a common constructive experience in living and learning together. It will keep the doors open for a better tomorrow.

Let us offer the citizens of Detroit an opportunity for a beginning - not an ending - for this city.

4-7-70

STATEMENT OF A. L. ZWERDLING
President of the Detroit Board of Education
April 7, 1970

The proposal before the Detroit Board of Education today is one which will continue to strengthen our commitment to quality education. It is one which provides an opportunity for the citizens of this city together to solve the dilemma of racially isolated, segregated education - a malady which is gripping every major city in this country today. This is an opportunity for all of us to help advance the American Dream of an open society in which black and white together can learn and grow and live in peace.

This proposal is designed to go into effect in September of 1970. Regardless of the destiny of Public Act #244 (which is the state law requiring the carving of the Detroit Public School District into regions, each to have an elected regional board to be chosen in the November, 1970 elections and to take office January, 1971) today's proposal will set the pattern for the reorganization of the school district.

By dividing the city into these seven regions and changing the feeder patterns of several of our senior high schools - we add to the total effectiveness of other policies we have adopted for this purpose. Our racially integrated staff, our measures for integrated textbooks and more relevant testing programs, our open school policy, our course materials and workshops, all of these and many other steps have brought us closer to our common goal.

Please note that this plan meets all legal requirements - and this is a very real consideration faced by the Board. Each region of the seven in the plan will have a student population of between 25,000 and 50,000; each will be substantially equal in population - and each will be racially integrated.

But this plan is necessary not just because it meets legal requirements. It also gives the people of this city a powerful instrument for good which, if effectively used, can mean better schools for our children - schools more responsive to community needs and aspirations. It can mean improved personal relationships among all of the citizens of Detroit.

4-7-70

EXCERPTS...
OBSERVATIONS FROM BOARD MEMBERS' STATEMENTS...

JAMES A. HATHAWAY:

"We have been discussing, studying, researching, consulting and data gathering means of implementing Act 244 for approximately eight months. Today, we are asked to approve the boundaries required under that act...

"Act 244 addressed itself to the question of decentralization when its actual purpose and present intent is community control...and yet our very first step in creating the boundaries will guarantee that there will be very little community control...

"Where can we find community control in regions that have 186,000 to 238,000 population? Act 244 ignores the pleas of the man in the street for a voice in the control of his elementary, intermediate and secondary school. It simply provides him with one more form of governance that may effectively deny his child an opportunity for quality education...

"Perhaps the most bitter medicine this board will be required to swallow will be the rage and frustration of parents, students and educators when they become aware that Act 244 is merely a subterfuge that denies community control...

"In actual fact Act 244 does only 4 things:

1. It arbitrarily mandates a division of Detroit District into regions.

2. It provides for the election of regional boards that are to all intent and purposes completely subservient to the present central board.

3. By-products of Act 244 are:

   (A) the expenditure of seven million dollars in increased administrative and regional costs

   (B) duplication of authority

   (C) polarization of black and white communities

   (D) creation of black minority regions

   (E) creation of teacher assignment difficulties directly attributable to pay classification of the teachers presently in regions where they presumably might wish to remain.

4. Creates additional financial problems for a board already beleagured by an illegal operating deficit without providing additional operating revenues to finance the unfortunate and ill-conceived venture in decentralization...

"I urge and caution this board to reconsider and re-evaluate the proposed plan.

"We may have a mandate from the Michigan legislature, but the real mandate is from the people for community control not decentralization for the sake of decentralization...

"Therefore, I urge this board in the strongest possible terms to seek from the legislature a delay in its implementation in order that the legislature and this board may have an opportunity to resolve together the complex legal, social and economic problems that have plagued this board in attempting to implement an act that makes smaller districts out of a large district but fails to provide any solution for the pertinent school problems of Detroit; and utterly ignores the pleas of every man, woman and child in this community for the answer to the question, 'How does my child achieve a quality education?'"

PATRICK A. McDONALD:

"The action proposed by this Board tonight threatens to destroy this City. This hastily conceived move if adopted will deepen the credibility gap between Detroiters and their schools, between what is said and what is done."

During public hearings on decentralization thousands of Detroiters showed up to tell members of the Board of Education that "1) They did not support the Decentralization Act (Public Act 244); 2) If all else failed they wanted districts that were compact and contained contiguous High School constellations and contained a community of interest."

"Apparently those who intend to adopt this plan either were not listening or have deliberately ignored their constituents. There are indications that they will adopt an obviously gerrymandered plan containing districts that are 4 to 5 miles long and only 1/2 mile wide. It adopts a plan containing a non-contiguous district and even a non-contiguous High School constellation. I ask the question: which Board members by their actions have supported the true community voice of involvement and control and which members have merely spouted rhetoric while their actions seem to the contrary?...

"Has there been time to consider the fact that while our school system and other agencies are attempting to obtain more lunches for children who are unable to even pay for lunches, we are asking them to pay more than that amount for their travel to and from school...

"This plan today does not increase the quality of education any place in the City. It is divisive and discouraging. The fact that some frosting is put on day-old pizza does not make it a birthday cake and nobody is going to celebrate.

"Even our legal counsel admits the enormous legal difficulties inherent in adopting any plan pursuant to Public Act 244.

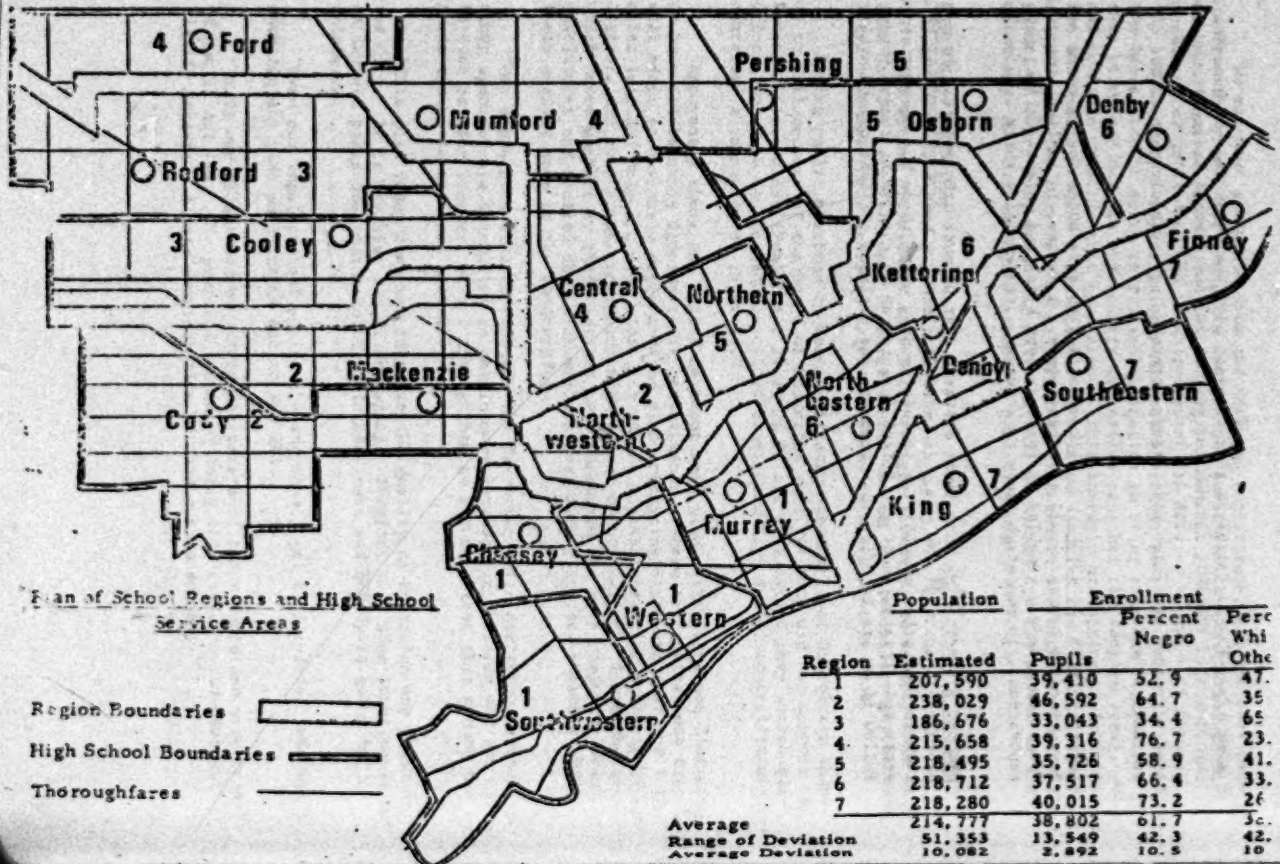
"It is our obligation to inform Detroiters of these facts and urge repeal of Public Act 244. The proposed action of today only confuses and does not clarify matters. I urge consideration of this entire subject."

4-7-7

ANDREW PERDUE: ..."although this does not give the black and the poor the maximum amount of control, maximum integration for our schools is important. Let's support this measure - with its imperfections - can move along to develop the kind of guidelines which will assure more meaningful involvement of our citizens in their schools."

LETTER FROM DR. ROBINSON: ..."I have served on this BOARD for 15 years and I have tried to represent all children fairly...I believe in quality, integrated education...deeply troubled by forces - both black and white - calling for separation...in pluralism there is strength...in democracy there is hope."

DARNEAU STEWART: "My conscience dictates that we must make progress in a pluralistic society. No group can make it alone. I have been watching integration in many other communities in this country where there has been no controversy and it is succeeding. I feel integration is the wisest course for us to follow if we are to offer both students and citizens the best opportunities."



Plan of School Regions and High School Service Areas

Region Boundaries

High School Boundaries

Thoroughfares

Region	Population Estimated	Enrollment Pupils	Percent Negro	Perc Whi Othe
1	207,590	39,410	52.9	47.
2	238,029	46,592	64.7	35
3	186,676	33,043	34.4	65
4	215,658	39,316	76.7	23.
5	218,495	35,726	58.9	41.
6	218,712	37,517	66.4	33.
7	218,280	40,015	73.2	26
Average	214,777	38,802	61.7	3c.
Range of Deviation	51,353	13,549	42.3	42.
Average Deviation	10,082	3,892	10.5	10

4-7-70

Effect over three-year period of boundary changes on racial composition of affected high schools

Region 1

Racial composition at Western and Southwestern resulting from enforcement of Wilson-Southwestern feeder pattern

All of Wilson graduates into Southwestern eliminating former option to Western

	Western	Southwestern
	Percentage Black Students	
	With Change	With Change
1969	38.6	87.7
1970	39.2	71.3
1971	44.6	60.8
1972	51.0	53.0

Region 2

Racial composition of Mackenzie and Cody resulting from the following shifts:

Coolidge and Marsh elementary districts into Mackenzie rather than Cody

McFarlane, Barton, Ruthruff and portion of Sherrill elementary district north of Tireman into Cody rather than Mackenzie

	Cody		Mackenzie	
	Percentage Black Students			
	Without Change	With Change	Without Change	With Change
1969	2.1	2.1	91.6	91.6
1970	3.3	9.7	90.7	83.8
1971	4.4	20.9	90.6	78.9
1972	5.7	31.3	89.3	69.9

4-7-70

Region 3

Racial composition of Cooley and Redford resulting from the following shifts:

Winship, Newton, Cerveny, Crary, King and Fitzgerald elementary districts into Redford rather than Cooley

Vetal, Harding, Gompers, Hubert and Healy elementary districts into Cooley rather than Redford

	Redford		Cooley	
	Percentage Black Students			
	Without Change	With Change	Without Change	With Change
1969	2.2	2.2	57.5	57.5
1970	3.6	11.4	61.5	53.0
1971	3.6	20.5	63.6	49.7
1972	4.5	29.2	62.6	42.6

Region 4

Racial composition in Ford and Mumford as a result of shifting the Vernor and Vandenberg elementary districts from Mumford into Ford

	Ford		Mumford	
	Percentage Black Students			
	Without Change	With Change	Without Change	With Change
1969	12.4	12.4	94.6	94.6
1970	13.5	16.3	95.8	94.9
1971	15.5	26.5	94.9	94.4
1972	14.7	31.3	94.6	93.8

Deviation [illegible] Osborn rather than Petersing

	Petersing		Osborn	
	Percentage Black Students			
	Without Change	With Change	Without Change	With Change
1969	97.3	97.3	14.1	14.1
1970	98.1	90.9	17.5	22.6
1971	93.3	46.5	21.7	32.7
1972	[illegible]	41.4	27.3	45.8

Racial composition of Kettering and Danby results from the following shifts:

All of Parkview [illegible] district to Danby rather than Kettering

Goodale, Harnish and Robinson elementary to Kettering rather than Danby

	Kettering		Danby	
	Percentage Black Students			
	Without Change	With Change	Without Change	With Change
1969	89.3	89.3	5.1	5.1
1970	91.4	81.3	2.4	19.3
1971	91.0	72.9	1.7	36.0
1972	90.6	62.1	0.9	53.4

EXHIBIT L

EXHIBIT

LAW OFFICES OF
MILLER, CANFIELD, PADDOCK AND STONE
1800 DETROIT BANK & TRUST BUILDING
DETROIT, MICHIGAN 48226

July 28, 1970

Dr. Norman Drachler
Superintendent
Detroit Public Schools
5057 Woodward Avenue
Detroit, Michigan 48202

Re: Act 48, Public Acts of 1970

Dear Dr. Drachler:

You have asked for our opinion as to certain features of Act 48, Public Acts of 1970, which was given immediate effect on July 7, 1970. Simply for the record, I would note that P.A. 48 is an amendment to Act 244, Public Acts of 1969 (§§ 388.171 et seq., C. L. 1948; M.S.A. §§ 15.2298(1) et seq.). The questions you have raised and our answers to them are as follows:

First, does Act 48 add to or detract from the provisions of Act 244 with respect to the role of the central board of education?

In our opinion, Act 48 in no way changes or affects the role of the central board of education (referred to in Act 48 as the "first class district board") as that role was exemplified in Act 244. Which is to say, ultimate responsibility and liability for the administration of the Detroit Public School System and for "the proper establishment, maintenance, management and carrying on of the public schools" is, under the provisions of Act 48 as it has always been, the sole and exclusive responsibility of the

first class district board of education. Obviously, Act 48, as did Act 244, does contemplate that the central board may delegate certain functions to the regional boards established by the act. However, this delegation of functions is "subject to guidelines established by the first class district board of education." And we repeat for the sake of emphasis that any such delegation does not insulate the central board from ultimate responsibility for the acts of the regional board under its delegated powers.

By the same token, duties assigned the Superintendent by the central board through its several policy directives, actions of the board, and by its by-laws are in no way affected by the provisions of Act 48 but may be changed only by action formally taken by the central board of education.

Second, when should guidelines be adopted under Act 48?

As has already been specifically noted, Section 8 of Act 48 repeats the language of Section 7 of Act 244 with one exception. Section 7 of Act 244 required that the central board establish guidelines for the implementation of that act "on or before November 1, 1970." In Act 48 of 1970 the November 1st date was eliminated and, indeed, no date was set by which the Board must act with respect to guidelines. In our opinion, the elimination of this deadline has the effect of giving more latitude to the central board than previously did exist as to the time limitations within which it may consider and act on the guidelines. But it is also our opinion that Act 48 must be reasonably interpreted as contemplating that the central board would issue such guidelines before January 1, 1971.

Your attention is directed to the language of Section 6 of Act 48 which says that, "Effective upon the commencement of its term of office, the regional board, subject to guidelines established by the first

class district board, shall have the power to: * * *." Your attention is further directed to the language of Section 8(8) of the act which requires that the first class school district board shall "Establish or modify guidelines for the implementation of the provisions of section 6." We respectfully submit that these quoted portions of Section 6 and Section 8 of Act 48 clearly indicate the Legislature's intent to have guidelines established and the plan ready to function by January 1, 1971, on which date the regional boards of education are to take office under the act.

Third, what is your present posture with respect to the direction given you by the Board on April 7, 1970, to organize the district in accordance with a seven district plan now that Act 48 mandates an eight district plan?

As Superintendent, obviously, you must follow the direction of the Board of Education. Equally obviously you must also follow those statutes that are applicable to the Detroit School District. We recognize that some problems may arise as a result of the flat direction of Act 48 that the District be divided into eight regions and the direction given you by the Board to administratively organize the District on a seven region basis. In order that any possible ambiguity be avoided, it would be our suggestion and recommendation that the Board formally rescind its action of April 7, 1970, dividing the District into seven regions, and by the same resolution authorize and direct you, as Superintendent of Schools, to proceed to organize the District under the provisions of Act 48 and in

Fourth, what is the effect of Act 48 on the action taken by the Board of Education on April 7, 1970, in establishing new high school attendance areas?

The answer to this question is found in Section 12 of Act 48. Section 12 says:

> **"The implementation of any attendance provisions for the 1970-71 school year determined by any first class school district board shall be delayed pending the date of commencement of functions by the first class school district boards established under the provisions of this amendatory act * * *."**

This quoted portion of Section 12 obviously, albeit indirectly, addresses itself to the action taken by the Board on April 7, 1970, with respect to establishing new high school attendance areas. In our opinion, the effect of this provisions is to rescind--for at least one year--the attempt made by the Board of Education on April 7, 1970, to achieve integration in its high schools. While Act 48 itself purports only to delay implementation until January 1, 1971, it is well known that no implementation begun even on January 1, 1971, could be placed into operation earlier than the beginning of the Fall semester in September, 1971. For these reasons we deem it unnecessary to recommend that the Board's action on April 7, 1970, establishing high school attendance areas be rescinded.

Quite apart from the matter of high school attendance areas and the action taken by the Board on April 7, 1970, Section 12 of Act 48 does recognize the right of the Board to determine and implement for this coming school year such changes in attendance provisions as are mandated by practical necessity. It is our opinion that where there are instances of

overcrowding or where other compelling educational reasons exist, the Board and its Superintendent may continue to observe established policy with respect to changes in attendance areas or feeder patterns, and that such policies and patterns are well within the language of Section 12, Act 48, Public Acts of 1970.

We would be happy to address ourselves to any further questions which you or any of the Board Members might have in connection with the act.

Very truly yours,

Miller, Canfield, Paddock and Stone

By

George E. Bushnell, Jr.

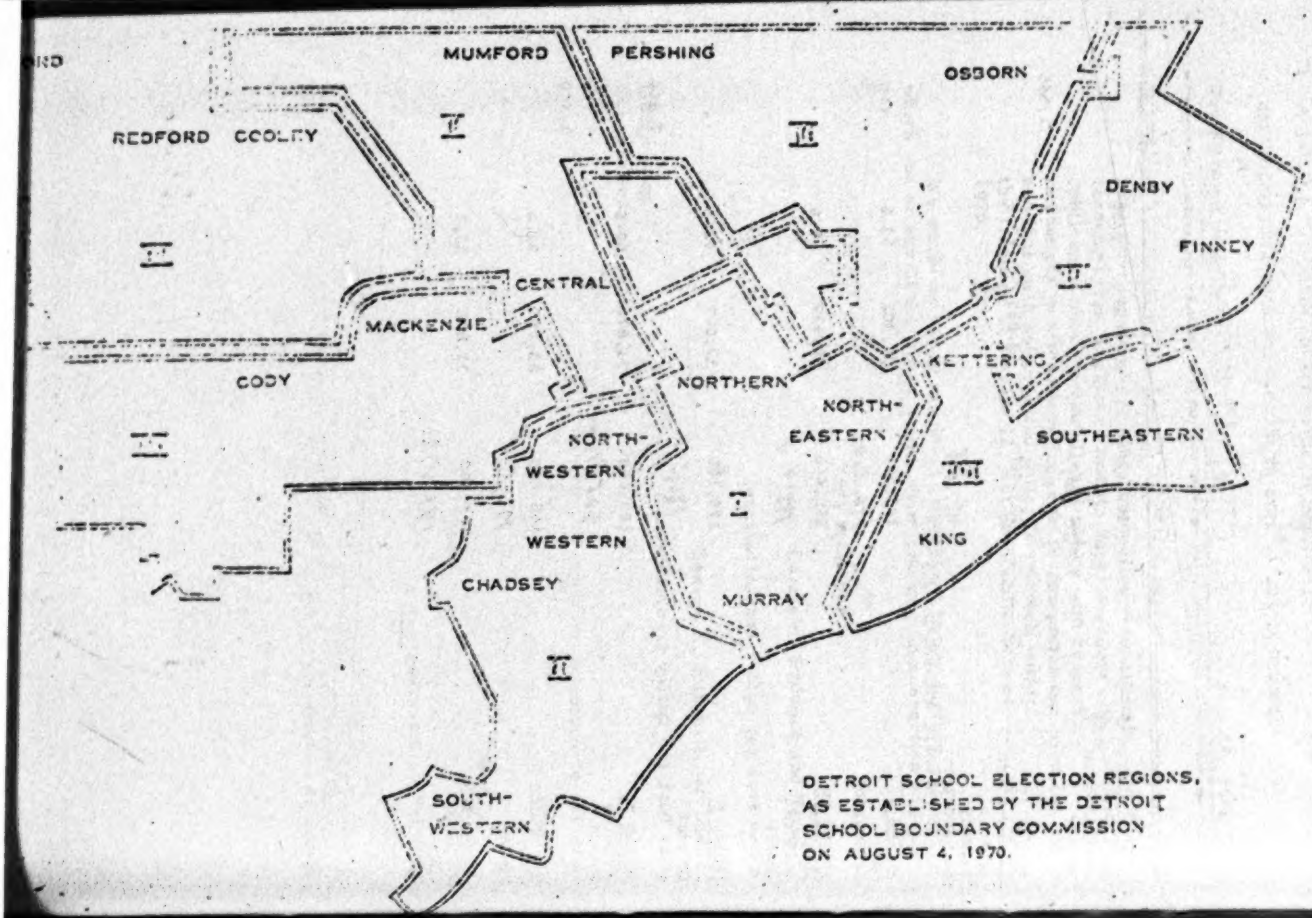
GEBjr ecg
cc: All Board Members

KEY FACTS OF EIGHT REGION PLAN EXHIBIT F

ADOPTED AUGUST 6, 1970 BY DETROIT BOUNDARY LINE COMMISSION

REGION I Northern Northeastern Murray (Plus Goldberg and Estabrook)	199,600	32,659	87.6	1,545
REGION II Northwestern Western Chadsey Southwestern (Minus Goldberg and Estabrook)	199,600	43,025	62.9	
REGION III Cody Mackenzie	183,500	35,302	53.6	
REGION IV Ford Redford Cooley (Minus Post and Coffey Constellations)	196,600	30,927	9.6	
REGION V Munford Central (Plus Post and Coffey Constellations)	178,160	37,002	92.3	7,244
REGION VI Pershing Osborn North 1/2 of Kettering	189,600	33,076	50.6	1,440
REGION VII Denby Finney	166,400	23,083	32.2	
REGION VIII Southeastern King South 1/2 of Kettering	168,600	33,575	86.7	

*Parents will vote in this region, but students will be required to attend school in another region.



DETROIT SCHOOL ELECTION REGIONS, AS ESTABLISHED BY THE DETROIT SCHOOL BOUNDARY COMMISSION ON AUGUST 4, 1970.

DETROIT SCHOOL BOUNDARY COMMISSION
Detroit, Michigan

DECISION

The Detroit School Boundary Commission, appointed by Governor William G. Milliken, on July 22, 1970, to draw regional election boundary lines for the City of Detroit public school system, pursuant to Public Act 48 of 1970, establishes the following eight (8) public school election regions, based on the school constellations described below, adjusted to the nearest election precinct, as more fully set forth in Appendix I hereto:

REGION I

(Northern - Northeastern - Murray)

Northern High School Constellation;
Northeastern High School Constellation;
Murray High School Constellation;
Goldberg Elementary School Attendance Area, and
Estabrook Elementary School Attendance Area

REGION II

(Southwestern - Western - Chadsey - Northwestern)

Southwestern High School Constellation;
Western High School Constellation;
Chadsey High School Constellation;
Northwestern High School Constellation,
except Goldberg Elementary School Attendance Area and
Estabrook Elementary School Attendance Area

REGION III

(Cody - Mackenzie)

Cody High School Constellation, and
Mackenzie High School Constellation

REGION IV

(Redford - Cooley - Ford)

Redford High School Constellation;
Cooley High School Constellation,
except Post Junior High School Constellation;
and
Ford High School Constellation,
except Coffey Junior High School Constellation

REGION V

(Mumford - Central)

Mumford High School Constellation;
Central High School Constellation;
Post Junior High School Constellation, and
Coffey Junior High School Constellation

REGION VI

(Pershing - Osborn)

Pershing High School Constellation;
Osborn High School Constellation, and
Kettering High School Constellation
north of the Edsel Ford Expressway

REGION VII

(Denby - Finney)

Denby High School Constellation, and
Finney High School Constellation

REGION VIII

(Southeastern - King - Kettering)

Southeastern High School Constellation;
King High School Constellation, and
Kettering High School Constellation
south of the Edsel Ford Expressway

Inasmuch as the Commission has discovered that there exists some misunderstanding with respect to its function, the Commission wishes to emphasize that the regions which it has established are for election purposes only and do not affect attendance lines. Such lines shall be established pursuant to the guidelines set forth in Public Act 48 of 1970. In establishing the eight (8) election regions, the Commission has deviated from existing high school constellations in four (4) instances. It has done so reluctantly for the purpose of establishing uniformity of population among the regions, which it believes and is advised by the State Attorney General is required by the Act and the United States Constitution.

Dated: August 4, 1970
Detroit, Michigan

JOHN E. MOGK, Esq.
Commission Chairman

Dr. CHARLES A. SPRATT
Commission Member

Hon. ANTHONY J. WIERZBICKI
Commission Member

APPENDIX I.

Region I.
(Northern - Northeastern - Norway)

District 8:	Precincts:	39, 40, 41.
District 10:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36.
District 11:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.
District 12:	Precincts:	2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 30, 31, 31A, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47.
District 22:	Precincts:	40, 41, 42.
District 23:	Precincts:	1, 2, 3, 46, 47, 48, 49.
District 24:	Precincts:	14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32.

Region II.
(Southwestern - Western - Oslofj - Northwestern)

District 21:	Precincts:	25, 26, 27, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 44, 45, 46, 47, 48.
District 22:	Precincts:	36, 37, 38, 39.

Region II. (continued)

District 23:	Precincts:	4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45.
District 24:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 31, 32, 33, 34, 35, 36.
District 25:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42.
District 26:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25.

Region III.
(Cody - Mackenzie)

District 18:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34.
District 19:	Precincts:	1, 1A, 2, 3, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48.
District 20:	Precincts:	31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52.
District 21:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 33, 34, 35.
District 22:	Precincts:	4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18.

Region IV.
(Redford - Cooley - Ford)

District 15:	Precincts:	13, 14, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52.
District 16:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 40, 40A, 41, 42, 48.
District 17:	Precincts:	1, 2, 2A, 3, 4, 5, 6, 7, 8, 8A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 22A, 23, 24, 25, 25A, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52.
District 18:	Precincts:	35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45.
District 19:	Precincts:	4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18.
District 20:	Precincts:	1, 2, 3, 4, 5, 7, 26, 27, 28, 29, 30.

Region V.
(Mumford - Central)

District 12:	Precincts:	1, 2A, 10.
District 13:	Precincts:	6, 7, 8, 9, 10, 11, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 41A, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52.
District 15:	Precincts:	1, 2, 3, 4, 4A, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 36A, 37, 38, 39, 26A.
District 16:	Precincts:	38, 39, 43, 44, 45, 46, 47.
District 20:	Precincts:	6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25.

Region V. (continued)

District 22:	Precincts:	1, 2, 3, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 43, 44, 45, 46, 47, 48.
District 23:	Precinct:	11.

Region VI.
(Pershing - Osborn)

District 5:	Precincts:	26, 44.
District 6:	Precincts:	1, 1A, 2, 3, 3A, 4, 5, 6, 7, 8, 9, 10, 11, 11A, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 42.
District 7:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45.
District 8:	Precincts:	1, 2.
District 13:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18A, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 42A, 43, 44, 45, 46, 47.
District 14:	Precincts:	1, 2, 3, 4, 5, 12, 13, 14, 15, 16, 17, 18.

Region VII
(Denby - Finney)

District 4:	Precincts:	1, 2, 3, 3A, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43.
District 5:	Precincts:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50.

Regi[illegible]

Dis[illegible]

Regio[illegible]

District [illegible] Provinces: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, [illegible], 18, 19, 20, 21, 22, 23, 24, [illegible], 30, 31, [illegible], 33, 34, [illegible], 36, 37, 38, 39, 40, 41, 42, 43

District [illegible] Provinces: 44, [illegible], 46, 47, 48, 49, 50, 51

District [illegible] Provinces: 1, [illegible], 24, 25, 26, 27, 28, 29, [illegible], 32, 33, 34, 35, [illegible]

District 9. Provinces: 1, 2, 3, [illegible], 8, 9, 10, 11, 12, 13, [illegible], 17, 18, 19, 20, 21, [illegible], 29, 31, [illegible], 38, [illegible], 40, 41, 42, 43, 44, 45, [illegible]

District [illegible] Provinces [illegible], 36

SUMMONS IN A CIVIL ACTION

United States District Court

FOR THE

~~EASTERN DISTRICT OF MICHIGAN~~
SOUTHERN DIVISION

RONALD BRADLEY and RICHARD BRADLEY, ETC. VERDA BRADLEY; JEANNE GOINGS, ETC., BLANCHE GOINGS; BEVERLY LOVE, JIMMY LOVE and DARRELL LOVE, ETC., CLARISSA LOVE; CAMILLE BURDEN, PIERRE BURDEN, AVA BURDEN, MYRA BURDEN, MARC BURDEN and STEVEN BURDEN, ETC., MARCUS BURDEN; KAREN WILLIAMS and KRISTY WILLIAMS, ETC., C. WILLIAMS; RAY LITT and MRS. WILBUR BLAKE, ETC.; NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, DETROIT BRANCH,

Plaintiff

v.

WILLIAM J. MILLIKEN, ETC.; FRANK J. KELLEY, ETC.; MICHIGAN STATE BOARD OF EDUCATION, ETC.; JOHN M. PORTER, ETC. (Lansing, Mich.) BOARD OF EDUCATION OF THE CITY OF DETROIT, ETC.; PATRICK McDONALD, JAMES HATHAWAY and CORNELIUS GOLIGHTLY, ETC.; and NORMAN DRACHLER (c/o Mr. George Bushnell, Attorney)

Defendant

CIVIL ACTION FILE NO. 35257

SUMMONS

To the above named Defendant :

You are hereby summoned and required to serve upon Nathaniel Jones, 1700 Broadway, Detroit, Michigan

Tennessee; and Bruce Miller and Lucille Watts, 3426 Cadillac Towers,

plaintiff's attorney , whose address is as are shown above

an answer to the complaint which is herewith served upon you, within days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

FREDERICK W. JOHNSON

CHERYL M. KRAUSE, Clerk of Court.

Deputy Clerk.

Date: AUG 15 1970

(Seal of Court)

Note: This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY and RICHARD BRADLEY, by their Mother and Next Friend, VERDA BRADLEY; NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, DETROIT BRANCH; et al., Plaintiffs,	)	
-vs-	)	Civil Action No. 35257
WILLIAM J. MILLIKEN, Governor of the State of Michigan and ex officio member of Michigan State Board of Education; THE BOARD OF EDUCATION OF THE CITY OF DETROIT, a school district of the first class; et al., Defendants.	)	

ANSWER TO COMPLAINT ON BEHALF OF DEFENDANTS THE BOARD OF EDUCATION OF THE CITY OF DETROIT; PARTRICK A. McDONALD; JAMES A. HATHAWAY; CORNELIUS L. GOLIGHTLY and NORMAN DRACHLER

Now come THE BOARD OF EDUCATION OF THE CITY OF DETROIT, a school district of the first class; PATRICK A. McDONALD, JAMES A. HATHAWAY and CORNELIUS L. GOLIGHTLY, members of The Board of Education of the City of Detroit; and NORMAN DRACHLER, Superintendent of the Detroit Public Schools (hereinafter collectively called the "Detroit Board"), named as defendants herein, by their attorneys Miller, Canfield, Paddock and Stone, and make answer to the Complaint of Ronald Bradley and Richard Bradley, by their Mother and Next Friend, Verda Bradley; National Association for the Advancement of Colored People, Detroit Branch, et al., Plaintiffs herein (hereinafter collectively called "Plaintiffs"), by saying:

1. Not having sufficient information upon which to found a

belief, the Detroit Board neither admits nor denies the allegations contained in Paragraphs I, II and III of Plaintiffs' Complaint, but leaves Plaintiffs to their proofs.

2. The Detroit Board admits the allegations contained in Paragraph IV of Plaintiffs' Complaint.

3. The Detroit Board is unable to make responsive pleading to the statement set forth in Paragraph V of Plaintiffs' Complaint, but Detroit Board does admit the verity of the quoted portions of Act No. 48, Michigan Public Acts of 1970.

4. The Detroit Board categorically and unequivocally denies the allegations contained in Paragraph VI of Plaintiffs' Complaint and avers and alleges that the said allegations are conclusions of law without truth or substantiation in fact.

5. The Detroit Board admits the allegations contained in Paragraph VII of Plaintiffs' Complaint and admits Exhibits B and C referenced in said Paragraph VII. By way of further answer to said Paragraph VII, the Detroit Board states that Section 1, 2 and 3 of Act No. 244, Michigan Public Acts of 1969, were specifically repealed by Section 2[sic] of Act No. 48, Michigan Public Acts of 1970.

6. Not having sufficient information upon which to found a belief, the Detroit Board neither admits nor denies the allegations contained in Paragraph VIII, but leaves Plaintiffs to their proofs. Further answering said Paragraph VIII, the Detroit Board states that it is unable to admit or deny those allegations going to pupil numbers and percentages of white or Negro students, since they do not conform to the published "Racial-Ethnic Distribution of Students and Employees in the Detroit Public Schools" dated October 1969, which report was prepared and distributed by the Detroit Board's Department of Intergroup Relations, Division of School-Community Relations. Nevertheless, it is recognized that Plaintiffs' allegations contained in Paragraph VIII may have been based on information that they obtained directly or indirectly from sources in the Detroit Public School System other than the reference report. The Detroit Board is unable to reply affirma-

tively or negatively to the allegations contained in Paragraph VIII as to identifiable "Negro schools" or "white schools," since nowhere in Plaintiffs' Complaint is there any definition given as to what is meant by this conclusionary allegation.

7. The Detroit Board makes answer to the allegations contained in Paragraph IX of Plaintiffs' Complaint by saying:

(a) Not having sufficient information upon which to found a belief, the Detroit Board neither admits nor denies the allegation that "The plan was designed so that by the year 1972, only three (as compared to the present 17) of Detroit's 21 senior high schools would be racially identifiable as 'Negro' or 'white' high schools." but leaves Plaintiffs to their proofs.

(b) The Detroit Board denies the allegations that "The plan also provided that a student presently enrolled in a junior high school and who has a brother or sister presently enrolled in a senior high school would continue in senior high school at the school his brother or sister was presently attending."

(c) The Detroit Board denies the allegations "***at the segregated senior high school***" and "***the existing racially segregated pattern of pupil assignments in the elementary and junior high schools."

(d) The Detroit Board admits the balance of the allegations contained in Paragraph IX of Plaintiffs' Complaint.

(e) The Detroit Board asserts that the best evidence of the action taken by the Detroit Board on April 7, 1970, is the minutes of the Detroit Board of Education meeting held on April 7, 1970, and not Exhibit D attached to Plaintiffs' Complaint.

8. The Detroit Board admits the allegations contained in Paragraph X of Plaintiffs' Complaint. Further answering said Paragraph X the Detroit Board states that the action taken on April 7, 1970, was under the provisions of Section 1 of Act No. 244, Michigan Public Acts of 1969, which section was specifically

repealed by the provisions of Section 2 [sic] of Act No. 48, Michigan Public Acts of 1970.

9. Not having sufficient information upon which to found a belief, the Detroit Board neither admits nor denies the allegations contained in Paragraph XI of Plaintiffs' Complaint but leaves Plaintiffs to their proofs.

10. The Detroit Board makes answer to Paragraph XII of Plaintiffs' Complaint by saying:

(a) Exhibit E is admitted and said Exhibit speaks for itself.

(b) Plaintiffs' interpretation of Exhibit E is categorically denied.

(c) The conclusions of law constituting the balance of said Paragraph XII are categorically denied.

11. The Detroit Board admits the allegations contained in Paragraph XIII of Plaintiffs' Complaint going to the appointment on July 22, 1970, by the Governor of a commission to draw boundary lines "mandated by Act 48," and the allegation that the commission's plan was presented on August 4, 1970. Not having sufficient information upon which to found a belief, the Detroit Board neither admits nor denies the conclusionary allegations constituting the balance of said Paragraph XIII of Plaintiffs' Complaint.

12. Not having sufficient information upon which to found a belief, the Detroit Board neither admits nor denies the conclusionary allegations contained in Paragraph XIV of Plaintiffs' Complaint, but leaves Plaintiffs to their proofs. A complete copy of Judge Kaess' opinion in Civil Action No. 22092, U.S.D.C., E.D. Mich., which is alluded to in said Paragraph XIV is herewith attached as Detroit Board's "Exhibit 1."

13. Not having sufficient information upon which to found a belief, the Detroit Board neither admits nor denies the allegations contained in Paragraphs XV and XVI of Plaintiffs' Complaint and

leaves Plaintiffs to their proofs.

14. The Detroit Board makes answer to Paragraph XVII of Plaintiffs' Complaint by admitting and acknowledging its constitutional duties and avers and asserts that it has at all times fulfilled the same. Further answering said Paragraph XVII, the Detroit Board states that any reference to a unitary public school system in the City of Detroit is irrelevant and immaterial, since the Detroit Public School System has been a "unitary" school system at all times from and after, at the latest, 1869.

15. The Detroit Board emphatically, categorically and unequivocally denies the allegations contained in Paragraphs XVIII, XIX, XX, XXI, XXII and XXIII of Plaintiffs' Complaint.

16. The Detroit Board emphatically, categorically and unequivocally denies Plaintiffs' prayer for relief in its entirety. Further responding to Plaintiffs' said prayer and more particularly to Paragraph 2g thereof, the Detroit Board states that as recently as April 14, 1970, in furtherance of the long-standing policy and practice of the Detroit Board of Education, Member Patrick A. McDonald formally introduced a "magnet" plan to the Detroit Board of Education, a copy of that plan is attached hereto and made a part hereof as the Detroit Board's "Exhibit 2"; said Exhibit 2 on its face stating that it was introduced in furtherance of Detroit Board's policy of achieving "quality, integrated education."

WHEREFORE, Defendants THE BOARD OF EDUCATION OF THE CITY OF DETROIT, a school district of the first class; PATRICK A. McDONALD, JAMES A. HATHAWAY and CORNELIUS L. GOLIGHTLY, members of the Board of Education of the City of Detroit; and NORMAN DRACHLER, Superintendent of the Detroit Public Schools (hereinafter collectively called the "Detroit Board"), respectfully pray and move:

A. That this Honorable Court under the provisions of Rule 12(b), Federal Rules of Civil Procedure, enter its summary judgment in favor of the Detroit Board and against Plaintiffs for Plaintiffs' failure to state a claim upon which relief can be granted.

B. That this Honorable Court under the provisions of Rule 12(c) and Rule 56, Federal Rules of Civil Procedure, enter its judgment on the pleadings in favor of the Detroit Board and as against Plaintiffs.

C. That costs so wrongfully sustained by the Detroit Board be assessed as against Plaintiffs.

Respectfully submitted,

Miller, Canfield, Paddock and Stone

By /s/
George E. Bushnell, Jr.

And /s/
Carl H. von Ende

Attorneys for Defendants The Board of Education of the City of Detroit, Patrick A. McDonald, James A. Hathaway, Cornelius L. Golightly and Norman Drachler
2500 Detroit Bank and Trust Building
Detroit, Michigan 48226
(313) 963-6420

Date: August 26, 1970.

EXHIBIT 1

UNITED STATES OF AMERICA
IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHERRILL SCHOOL PARENTS COMMITTEE, an Unincorporated Voluntary Association, WILFRED BENTLEY, SR., BORIS OURLIGHT, ROOSEVELT BROWN, FRANK CAMPBELL, SALLY TURNER and SAMUEL LEHMAN, on behalf of themselves and others similarly situated,

Plaintiffs,

vs.

THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF THE CITY OF DETROIT, MICHIGAN, A School District of the First Class, being a Statutory Body Corporate,

Defendant.

Civil Action

No. 22092

INTERIM FINDINGS

The above-entitled matter having been heard from time to time in camera since the inception of the suit; discovery having proceeded; the Court having appointed an Amicus Curiae consisting of six (6) citizens of the City of Detroit; the report of the Amicus Curiae having been filed with the Court; a certain Program for an Integrated School System having been presented to the Court by defendant; counsel for plaintiffs having posed certain questions relative to the said Program and made certain objections thereto; counsel for defendant having responded to those questions; and the Court having been fully advised in the premises,

It is the Interim Findings of this Court that:

IT IS THEREFORE

1. [illegible] encouraged to proceed forthwith with the implementation of its proposed program for an Integrated School System. The Court, without prejudice to the rights of either party, recommends the following proposals made by plaintiff's counsel for incorporation by the Board in its proposed Program for an Integrated School System:

(a) The Board should commit itself to the immediate and substantial reduction of the number of schools in which there are no Negro teachers and other professional personnel. Substantial integration of faculty and professional personnel should be achieved in all schools by the beginning of the February, 1965 term;

(b) The present "Open School" program does not appear to be achieving substantial student integration in the Detroit School System presently or within the foreseeable future. Accordingly, the Board should commit itself to devise and propose other methods of speeding up the racial integration of students. The goal should be the achievement of substantial student integration in all High Schools and Junior High Schools by the beginning of the February, 1965 term;

(c) Recommendation [illegible] of the Equal Educational Opportunities Committee should be implemented forthwith by

(over) EXHIBIT

[illegible] Board

[illegible]

Program which is not an integrated

program by the beginning of the

February 1965 term.

2. In order that the Court may be appraised at all times of the progress being made by the Board in the implementation of its above Program and the suggested additions thereto.

IT IS DIRECTED that Defendant, The Board of Education of the School District of the City of Detroit, Michigan, shall inform this Court on or before November 30, 1964, February 28, 1964 and May 31, 1965 of the then status of said Program.

3. Both parties may, at their discretion, continue Pre-Trial Discovery in accordance with the Federal Rules of Civil Procedure and Notice this matter for further Pre-Trial Conference with the Court.

4. Nothing herein contained is to be construed as any pre-judgment of this case or ordering compulsory movement of students or assignment or promotion of personnel on other than equitable or meritorious basis, so that the basic element of equal opportunity is preserved for all.

FRED W. KAESS

United States District Judge

A TRUE COPY
FREDERICK W. JOHNSON, Clerk
BY M. McKeown
DEPUTY CLERK

Dated: September 1[illegible], 1964
Detroit, Michigan

[illegible] 1

EXHIBIT 2

PROPOSAL TO ACHIEVE QUALITY, INTEGRATED EDUCATION

I am proposing a plan whereby true and permanent quality, integrated education, as opposed to temporary integration, can be achieved. With the exception of Cass Technical High School, there are 21 high school constellations in Detroit. I propose five geographic areas within the city, with four such areas containing four high school constellations and one area containing five high schools. All four high schools within each geographic area would have a general curriculum. In addition to this general curriculum, one of those high schools would excel and concentrate in business education and commercial skills. Yet another high school within each area would concentrate on a science curriculum including strong doses of chemistry, biology, and mathematics. A third high school within each area would concentrate on an arts curriculum including communication arts, television, radio, graphic arts, and performing arts. The fourth high school in each area would concentrate on pre-engineering and vocational education.

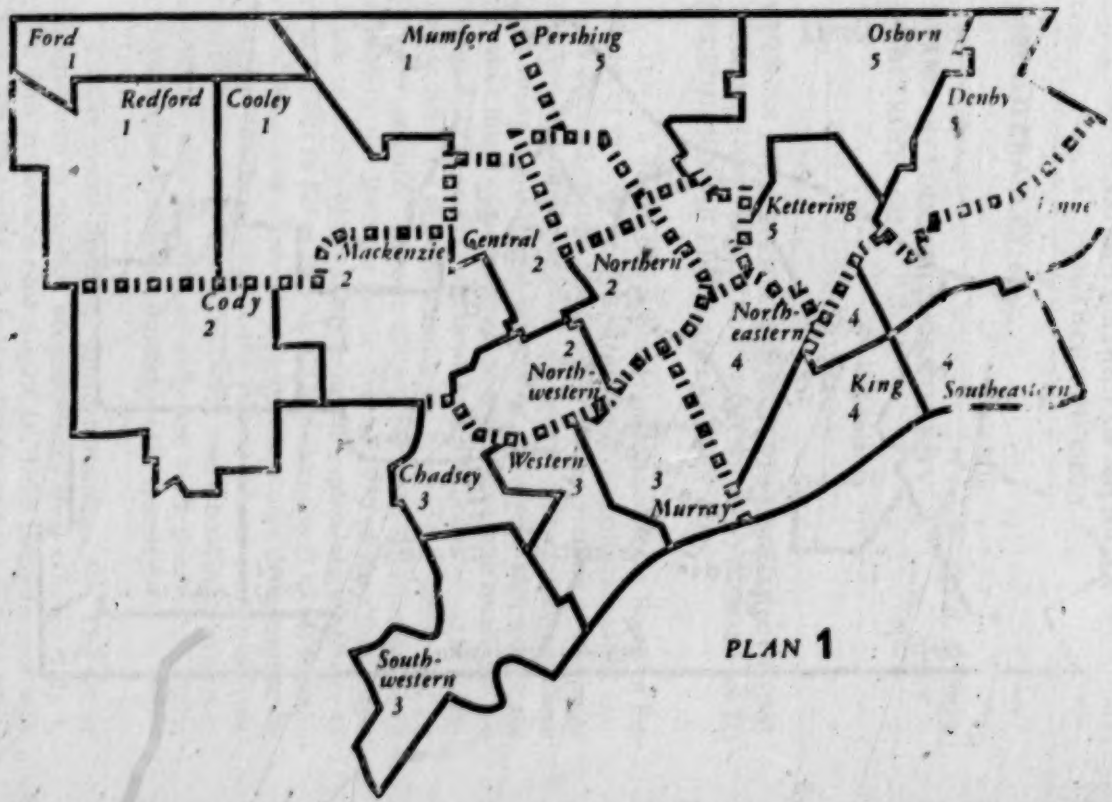
Our best teachers in a given subject would be transferred to and grouped in the high school emphasizing that subject area. Supporting materials would likewise be concentrated in each of the high schools mentioned. As a result, if a student wishes to concentrate on a science curriculum, for example, he and his parents would know exactly which school in his general geographic

area offers the highest quality education in that subject. As at Cass Tech, each of these area schools would emphasize quality education in their designated subjects. It would in this way be putting quality education into the system first. Integration, as at Cass Tech, would simultaneously occur.

Allow me to stress that Cass Tech would continue at its present high quality level and that D.S.R. busing would only occur, as with Cass, on a voluntary basis. I would hope that these plans be considered, be made available to Detroiters for discussion and comments, so that this city might be unified and, at the same time, we can achieve the goal of a quality, integrated education.

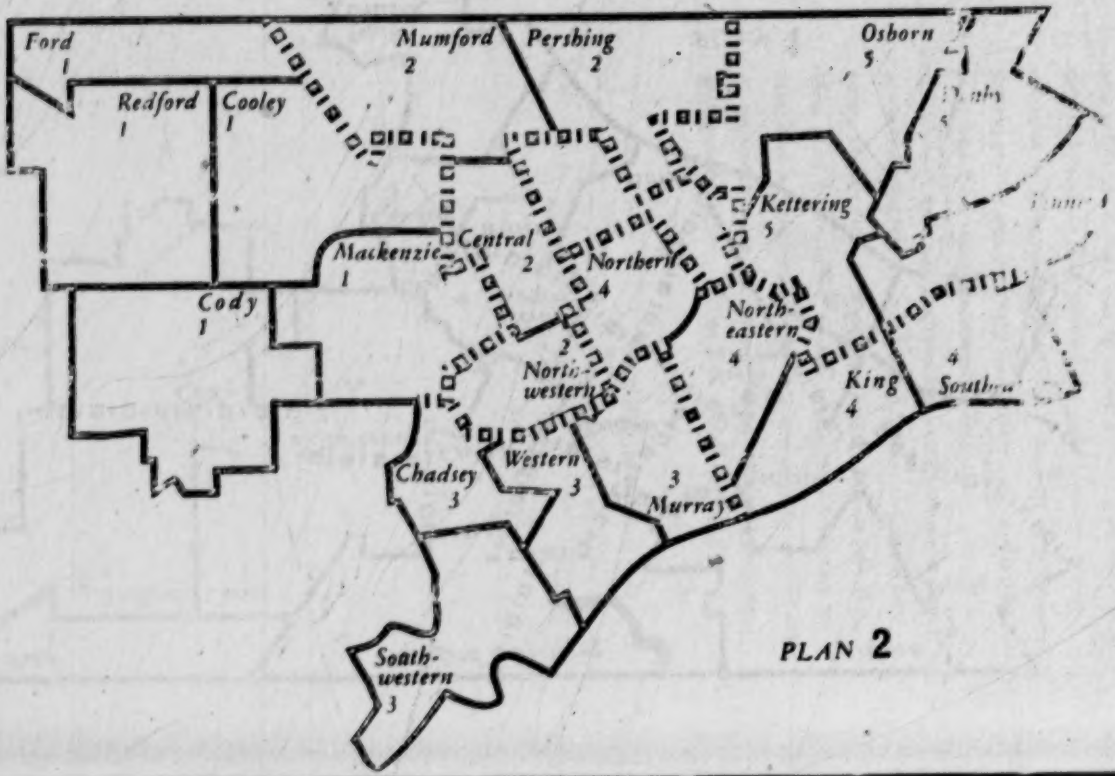
Patrick A. McDonald,
Member,
Detroit Board of Education

EXHIBIT 3


Ford
1
Mumford
1
Pershing
5
Osborn
5
Redford
1
Cooley
1
Denby
1
Kettering
5
Mackenzie
2
Central
2
Northern
2
Cody
2
2
North-
eastern
4
4
North-
western
4
King
4
Southeastern
Chadsey
3
Western
3
3
Murray
South-
western
3

PLAN 1

I a57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PLAN 2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,	)	
Plaintiffs	)	
v.	)	**CIVIL ACTION**
BOARD OF EDUCATION OF THE CITY OF DETROIT, et al.,	)	**No. 35257**
Defendants	)	

RULINGS ON: APPLICATION FOR PRELIMINARY INJUNCTION; MOTION TO INTERVENE; MOTION TO DISMISS AS TO DEFENDANTS MILLIKEN AND KELLEY.

This is a desegration action brought against the Board of Education of the City of Detroit, Michigan, and others, and the matter is presently before the Court on the application of the plaintiffs for preliminary relief in the form of a mandatory interlocutory injunction to put into effect (1) a plan adopted by the erstwhile Board (four members of which have been recalled in the August 4, 1970 primary election); such plan, however, to be ordered modified by deleting from it its "stair-step" feature and its "brother or sister" feature; (2) enjoining the implementation of Act 48 of the Michigan Public Acts of 1970 so faras they might negate or modify (1); (3) enjoining the implementation of Act 48 as to regions so far as they would impinge upon (1); (4) restraining further school construction; and, (5) ordering defendants to assign, by the beginning of the current school year, principals, faculty, and other school personnel in each school in the system in accordance with the ratio of white and black principals, faculty, and other school personnel throughout the system.

Certain events should be noted chronologically: The act of the legislature in question became immediately effective July 7, 1970. This action was filed August 18, 1970. A conference with counsel for the parties was held in the Court's chambers in Flint, Michigan on August 19, 1970, and a show cause order was issued the same day, with hearing scheduled for August 27, 1970. The

hearing on August 27 was conducted on a combined basis, i.e. on the application for preliminary relief and on the merits. On August 28, at the continuation of the hearing, the Court, and, it believes, counsel, concluded that, with the schools involved scheduled to open on September 8, and the Labor Day Holiday intervening, it appeared a better course to proceed on the application for preliminary relief, and that the hearing on the merits be set for November 2, 1970 when, by rearrangement of the other commitments of the Court, two five-day work weeks would be set aside for this case. The hearing on the application for preliminary relief then was concluded on September 1, 1970. Because of the need for a prompt decision by the Court and quick notice to the parties, the Court stated that it would announce its decision on the application for preliminary relief as soon as the Court made its decision, and that its memorandum opinion would follow as soon as it could be prepared.

The request for preliminary relief, if framed in its pleaded form, is in the most sweeping of terms, and even if reduced to a form consistent with what appears to have been the posture of the plaintiffs' request at the hearing, relief which would in effect preliminarily decide the basic issues which will be involved in the hearing on the merits. A mandatory injunction of the kind prayed for should, especially at a preliminary stage, be granted only in those rare instances in which the facts and the law are clearly in favor of the movant. It is the rarest form of relief available prior to final adjudication, particularly where it changes the status quo. Here, the proofs are not convincing that there has been a course of action which can be characterized as directed toward the maintenance of a dual system of schools, either de jure or de facto. To the contrary, the evidence before the Court indicates that there has been a conscious, deliberate, progressive, and continuous attempt to promote and advance the integration of both pupils and faculty. This has occurred without the sanction of an injunction.

Without cataloging and reviewing the cases cited by plaintiffs, we note that many of the cases advanced in support of their position are cases involving extended litigation over de jure segregated schools, or de facto segregated schools where there was either a showing of affirmative acts to retain such segregation, or acts of

omission designed with the obvious objective of maintaining segregation. We find no such situation here.

We believe the best interests of the children, their parents, the school administration and faculty, and the general public will best be served at this point in these proceedings if the preliminary injunction prayed for is not issued. Accordingly, the application for preliminary relief is denied. So that the hearing on the merits may proceed with dispatch the Court shall require that trial briefs be submitted not later than October 27, 1970, and that proposed exhibits be cleared between counsel by the same day.

Upon consideration of the motions to intervene and for dismissal as to the Governor and Attorney General, it is ordered that the motion to intervene is denied, and the motion to dismiss as to the Governor and the Attorney General is granted. Appropriate orders may be submitted.

/s/
STEPHEN J. ROTH
United States District Judge

Dated: September 3, 1970.

A TRUE COPY
FREDERICK W. JOHNSON, CLERK

BY: /s/
Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al, Plaintiffs	)	
v.	)	CIVIL ACTION
BOARD OF EDUCATION OF THE CITY OF DETROIT, et al, Defendants.	)	No. 35257

ORDER DENYING PLAINTIFFS' APPLICATION FOR PRELIMINARY INJUNCTION AND GRANTING DEFENDANTS' MOTION TO DISMISS AS TO DEFENDANTS MILLIKEN AND KELLEY.

AT A SESSION OF THE UNITED STATES DISTRIC COURT, held at the Federal Building in the City of Flint, on the day of September, in the year one thousand nine hundred and seventy.

PRESENT: THE HONORABLE STEPHEN J. ROTH, United States District Judge.

In this cause plaintiffs having made application for preliminary injunction, this Court having issued its order to show cause, defendants having made a motion to dismiss as to defendants, William G. Milliken, Governor of the State of Michigan and ex-officio member of the Michigan State Board of Education, and Frank J. Kelley, Attorney General of the State of Michigan, a hearing having been held on plaintiffs' application for a preliminary injunction, the parties having filed briefs and oral argument having been had on both plaintiffs' application for a preliminary injunction and defendants' motion to dismiss, this Court having issued its written opinion thereon on September 3, 1970, and this Court being fully advised in the premises;

IT IS ORDERED AND ADJUDGED that the written opinion of this Court dated September 3, 1970 is incorporated herein by reference and made a part of this Order as though set forth in its entirety and verbatim.

IT IS FURTHER ORDERED AND ADJUDGED that the application of plaintiffs for a preliminary injunction should be and hereby is DENIED.

IT IS FURTHER ORDERED AND ADJUDGED that the defendants' motion to dismiss as to William G. Milliken, Governor of the State of Michigan and ex-officio member of the Michigan State Board of Education, and Frank J. Kelley, Attorney General of the State of Michigan, should be and hereby is GRANTED.

Stephen J. Roth
United States District Judge

Approved as to form:

Louis R. Lucas
Ratner, Sugarmon and Lucas
525 Commerce Title Building
Memphis, Tennessee
Attorney for Plaintiffs

George E. Bushnell, Jr.
Miller, Canfield, Paddock & Stone
2500 Detroit Bank & Trust Bldg.
Detroit, Michigan
Attorney for Defendants
Detroit Board of Education,
its members and officers

/s/

Eugene Krasicky
Assistant Attorney General
525 West Ottawa Street
Lansing, Michigan
Attorney for Defendants
William G. Milliken,
Frank J. Kelley, Michigan
State Board of Education, and
John W. Porter, Acting
Superintendent of Public
Instruction

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et all,	)	
Plaintiffs,	)	
vs.	)	**Civil Action**
WILLIAM G. MILLIKEN, Governor of the	)	**No. 35257**
State of Michigan, et al,	)	
Defendants.	)	

ANSWER TO COMPLAINT ON BEHALF OF DEFENDANTS, WILLIAM G. MILLIKEN, GOVERNOR OF THE STATE OF MICHIGAN, FRANK J. KELLEY, ATTORNEY GENERAL OF THE STATE OF MICHIGAN, MICHIGAN STATE BOARD OF EDUCATION AND JOHN W. PORTER, ACTING SUPERINTENDENT OF PUBLIC INSTRUCTION.

Now come defendants, William G. Milliken, Governor of the State of Michigan and ex-officio member of Michigan State Board of Education, Frank J. Kelley, Attorney General of the State of Michigan, Michigan State Board of Education and John W. Porter, Acting Superintendent of Public Instruction (hereafter collectively referred to as the State Defendants), by their attorneys, Frank J. Kelley, Attorney General of the State of Michigan, and Eugene Krasicky, Assistant Attorney General, and make their answer to plaintiffs' complaint in the above captioned cause by respectfully representing to this Court as follows:

I. The allegations in paragraph I of plaintiffs' complaint are conclusions of law requiring no answer.

II. The State Defendants lack sufficient information to form a belief as to the truth of the allegations contained in paragraph II of plaintiffs' complaint and leave plaintiffs to their proofs.

III. The State Defendants lack sufficient information to form a belief as to the truth of the allegations contained in paragraph III of plaintiffs' complaint and leave plaintiffs to their proofs.

IV. The State Defendants admit the allegations contained in paragraph IV of plaintiffs' complaint except insofar as such allegations are conclusions of law requiring no answer concerning the legal responsibilities of the defendants.

V. The allegations contained in paragraph V of plaintiffs' complaint are conclusions of law requiring no answer.

VI. The State Defendants deny the allegations contained in paragraph VI of plaintiffs' complaint.

VII. The State Defendants admit the allegations contained in paragraph VII of plaintiffs' complaint.

VIII. The State Defendants lack sufficient information to form a belief as to the truth of the allegations contained in paragraph VIII of plaintiffs' complaint and leave plaintiffs to their proofs.

IX. The State Defendants admit that on April 7, 1970 the Detroit Board of Education made certain attendance area changes affecting 12 senior high schools and as to the balance of the allegations contained in paragraph IX of plaintiffs' complaint the State Defendants lack sufficient information to form a belief as to the truth of such allegations and leave plaintiffs to their proofs.

X. The State Defendants admit the allegations contained in paragraph X of plaintiffs' complaint.

XI. The State Defendants admit that four members of the Detroit School Board were recalled at an election held on August 4, 1970, admit that Public Act 48 was approved by the Governor on July 7, 1970, deny that Public Act 48 voided any desegregation plan, and, lacking sufficient information to form a belief as to the truth of the remainder of the allegations in paragraph XI of plaintiffs' complaint, leave plaintiffs to their proofs.

XII. The State Defendants admit Exhibit E, which speaks for itself, deny plaintiffs' interpretation of Exhibit E, and deny the conclusions of law constituting the remainder of paragraph XII of plaintiffs' complaint.

XIII. The State Defendants admit the allegations contained in the first two sentences of paragraph XIII of plaintiffs' complaint, admit Exhibit F, which speaks for itself as to the composition of the regions, and deny the last sentence of paragraph XIII of plaintiffs' complaint.

XIV. The allegations contained in paragraph XIV of plaintiffs' complaint are conclusions of law requiring no answer.

XV. The allegations contained in paragraph XV of plaintiffs' complaint are conclusions of law requiring no answer.

XVI. The allegations contained in paragraph XVI of plaintiffs' complaint are conclusions of law requiring no answer.

XVII. The State Defendants admit that there is a constitutional duty to operate a unitary public school system and affirmatively state that the Detroit Public Schools are under the operational control of the Detroit Board of Education.

XVIII. The State defendants deny the allegations contained in paragraph XVIII of plaintiffs' complaint.

XIX. The State Defendants deny the allegations contained in paragraph XIX of plaintiffs' complaint.

XX. The State Defendants deny the allegations contained in paragraph XX of plaintiffs' complaint.

XXI. The State Defendants deny the allegations contained in paragraph XXI of plaintiffs' complaint.

XXII. The State Defendants deny the allegations contained in paragraph XXII of plaintiffs' complaint.

XXIII. The State Defendants deny the allegations contained in paragraph XXIII of plaintiffs' complaint.

AFFIRMATIVE DEFENSE

I. Plaintiffs' complaint fails to allege that any of the plaintiffs would have attended a different senior high school pursuant to the attendance area changes affecting twelve high schools made by the Detroit Board of Education on April 7, 1970. Further, plaintiffs' complaint fails to allege that any of the plaintiffs attend any of the twelve senior high schools affected by the same April 7, 1970 attendance area changes. Thus, plaintiffs have failed to demonstrate the requisite standing to attack the constitutionality of the first sentence of Section 12 of Act 48, PA 1970, which delayed implementation of the April 7, 1970 attendance area changes until the commencement of functions by the newly established first class school district board on January 1, 1971.

WHEREFORE, the State Defendants respectfully pray and move:

A. That this Honorable Court, pursuant to Rule 12 (b) (6), Federal Rules of Civil Procedure, dismiss plaintiffs' complaint as to the State Defendants for failure to state a claim upon which relief can be granted.

B. That this Honorable Court, pursuant to Rule 12 (c), Federal Rules of Civil Procedure, enter its judgment on the pleadings in favor of the State Defendants as against plaintiffs.

FRANK J. KELLEY
Attorney General

/s/
Eugene Krasicky
Assistant Attorney General

Gerald F. Young
Assistant Attorney General

Attorneys for Defendants

Business Address:
Seven Story Office Building
525 West Ottawa Street
Lansing, Michigan 48913

UNITED STATES OF AMERICA
IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs, -vs- WILLIAM G. MILLIKEN, et al., Defendants.	No. 35257 ORDER GRANTING MOTION OF DETROIT FEDERATION OF TEACHERS LOCAL 231, AFT, AFL-CIO, TO INTERVENE AS PARTY DEFENDANT

AT A SESSION OF SAID COURT HELD IN THE FEDERAL BUILDING IN THE CITY OF DETROIT, MICHIGAN ON NOVEMBER 4, 1970.

PRESENT: HONORABLE STEPHEN J. ROTH, U.S. DISTRICT JUDGE.

This matter having come on to be heard on the motion of Detroit Federation of Teachers, Local 231, American Federation of Teachers, AFL–CIO, to intervene as a party defendant herein; and the defendants having consented thereto and the plaintiffs having objected thereto; and briefs for and in opposition to said motion having been filed and arguments having been heard thereon; and the Court being fully advised in the premises, now, therefore,

IT IS ORDERED that said motion of Detroit Federation of Teachers, Local 231, American Federation of Teachers, AFL–CIO, to intervene as party defendant be and the same is hereby granted.

STEPHEN J. ROTH
U. S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,	)	
Plaintiffs,	)	
-vs-	)	**Civil Action**
WILLIAM G. MILLIKEN, et al.,	)	**No. 35257**
Defendants.	)	

ORDER

THE ABOVE–ENTITLED MATTER having regularly come on to be heard upon Plaintiffs' Motion "to implement plan"; all parties having been present by counsel; evidence having been taken; argument having been heard, and the Court having been fully advised in the premises, now therefore,

IT IS DECREED, ADJUDGED and ORDERED that said matter be, and the same hereby is taken under advisement; and

IT IS FURTHER DECREED, ADJUDGED and ORDERED that no later than November 16, 1970, Defendant Detroit Board of Education submit a high school attendance area plan to this Court consisting of that portion of the action taken by Defendant Detroit Board of Education on April 7, 1970, going to the changing of attendance areas of certain named high schools in the City of Detroit, or an updated version thereof which achieves no less pupil integration; the said plan to be submitted to this Court is to become effective and shall be implemented on the first day of the Spring Semester of the school year 1970-1971, being February 1, 1971.

/s/
District Judge

Dated at Flint, Michigan
Nov. 6th, 1970.

UNITED STATES OF AMERICA
IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs, -vs- WILLIAM G. MILLIKEN, et al., Defendants, and DETROIT FEDERATION OF TEACHERS, LOCAL 231, AMERICAN FEDERATION OF TEACHERS, AFL–CIO, Intervening Defendant	)	No. 35257 PRE-TRIAL STATEMENT OF INTERVENING DEFENDANT

Detroit Federation of Teachers, Local 231, AFT,AFL–CIO, intervening defendant, submits the following as its pre-trial statement herein:

I.

STATEMENT OF ISSUES

Intervenor submits that the following matters are in issue, relative to faculty, based upon plaintiffs' claims:

(1) Whether the Detroit Board of Education has been guilty of state-compelled segregation of faculty and/or pupils which requires a remedy of desegregation and/or integration of faculty;

(2) Whether, in the event a remedy of desegregation and/or integration of faculty is required, a remedy of assignment and/or reassignment of faculty is required and/or appropriate that faculty be assigned and/or reassigned in each school of the Detroit school system in direct ratio to the over-all ratio of white and black teachers in the system, and without regard to teacher skills, certification, amount of experience, tenure and seniority, or otherwise.

(3) [Intervenor reserves the right to state further issues as perceived].

II.

STATEMENT OF THEORY AND DEFENSE

Intervenor submits, on information and belief, that the Detroit Board of Education has not been guilty of state-compelled segregation of faculty and/or students and, therefore, a judicial remedy of desegregation and/or intergration of faculty is not required or appropriate.

In the event, such a remedy were required, plaintiffs' proposed remedy, namely, that faculty be assigned and/or reassigned in each school of the Detroit system in direct ratio to the overall ratio of white and black teachers in the system, and without regard to teacher skills, certification, amount of experience, tenure and seniority, or otherwise, is neither required nor appropriate.

III.

WITNESSES

Intervenor may call Mary Ellen Riordan, John Elliott, and/or others, dependent upon plaintiffs' proofs.

Respectfully submitted,

ROTHE, MARSTON, MAZEY, SACHS,
O'CONNELL, NUNN & FREID

by /s/_____
Theodore Sachs

Attorneys for Intervenor
1000 Farmer Street
Detroit, Michigan 48226
965-3464

DATED: November 9, 1970.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs,	)	
vs.	)	No. 35257
WILLIAM G. MILLIKEN, et al., Defendants,	)	
and	)	
DETROIT FEDERATION OF TEACHERS, LOCAL 231, AMERICAN FEDERATION OF TEACHERS, AFL–CIO, Intervening Defendant.	)	

PRE-TRIAL STATEMENT OF STATE DEFENDANTS

Now come the state defendants, William G. Milliken, Governor of the State of Michigan, Frank J. Kelley, Attorney General of the State of Michigan, Michigan State Board of Education and John W. Porter, Superintendent of Public Instruction, by their attorneys, Eugene Krasicky and Gerald F. Young, Assistant Attorneys General, and respectfully submit the following as their pre-trial statement herein:

I.

Statement of Issues

The state defendants respectfully submit that, based upon plaintiffs' complaint, the following are the issues raised herein against the state defendants:

1. Whether the last sentence of the first paragraph of Section 2a, either on its face or as applied, is violative of the Federal Equal Protection Clause as constituting invidious racial discrimination?

2. Whether the state defendants have engaged in any

affirmative conduct constituting state compelled de jure segregation concerning the establishment of attendance areas, the assignment of school personnel or the location and construction of school buildings or facilities in the Detroit schools?

II.

Statement of defenses and legal theories

1. That plaintiffs lack standing to attack the constitutionality of Sections 2a and 12 of Act 48, PA 1970.

2. That the school administrative regions established under the last sentence of the first paragraph of Section2a, which are also election regions for the purpose of electing members to the first class district school board, were established to conform to the requirements of both the Federal Equal Protection Clause and Section 2a and to implement administrative decentralization of the Detroit schools for the purpose of fostering greater community control therein.

3. That the last sentence of the first paragraph of Section 2a and the regions established thereunder are in conformity with the Federal Equal Protection Clause.

4. That the state defendants have not engaged in any affirmative conduct constituting state compelled de jure segregation concerning the establishment of attendance areas, the assignment of school personnel or the location and construction of school buildings or facilities in the Detroit schools for the reason that operational control over such matters is reposed by state statute in the Detroit Board of Education.

III.

Witnesses

Whether the state defendants will call any witnesses is dependent upon plaintiffs' proofs.

The state defendants reserve the right to state additional issues, defenses or legal theories.

Respectfully submitted,

FRANK J. KELLEY
Attorney General

Eugene Krasicky
Assistant Attorney General

/s/
Gerald F. Young
Assistant Attorney General

Attorneys for State Defendants

Business Address:
Seven Story Office Building
525 West Ottawa Street
Lansing, Michigan 48913

Dated: November 12, 1970

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al, Plaintiffs,	)	
vs.	)	
WILLIAM G. MILLIKEN, et al, Defendants,	)	No. 35257
and	)	
DETROIT FEDERATION OF TEACHERS, LOCAL 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Intervening Defendant.	)	

PRE-TRIAL STATEMENT OF PLAINTIFFS

Plaintiffs submit the following as their pre-trial statement herein:

I.
STATEMENT OF CLAIMS AND THEORIES OF PLAINTIFFS

The Detroit public schools are being operated in a manner which violates the Thirteenth and Fourteenth Amendments to the Constitution of the United States.

The Detroit School System operates schools which are racially identifiable as "Negro" and "White" schools, which schools are inherently unequal, and which deny plaintiffs equal educational opportunities.

A school system which operates schools as set out in the preceding paragraph is under an affirmative duty imposed by the Thirteenth and Fourteenth Amendments to remove the racial identifiability of the schools in its system by desegregating the student bodies of the individual schools and by assigning and/or reassigning faculty members to each school in accordance with the system-wide ratio of black and white faculty members, and by planning and making facility additions in a manner which will

promote and maintain racially non-identifiable schools.

II.
STATEMENT OF ISSUES

1. Whether the defendant Detroit Board has complied with its admitted affirmative Constitutional duty to operate a public school system without "Negro" and "White" schools, but just schools?

2. Whether the defendant Detroit Board maintains a public school system which denies equality of educational opportunity to Detroit's public school children on the basis of race?

3. Whether the pupil and faculty assignment policies of the defendant Detroit Board have failed and do fail to provide all persons with the same right to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, in violation of 42 U.S.C. §1981 and the Thirteenth and Fourteenth Amendments?

4. Whether the defendant Detroit Board has instituted and/or utilized pupil assignment and transfer policies which have aided the creation and maintenance of racially identifiable schools?

5. Whether the defendant Detroit Board has established, perpetuated and/or maintained pupil attendance zones and pupil feeder patterns which result in the existence of racially identifiable schools?

6. Whether the defendant Detroit Board's open enrollment policies, optional attendance zones, transportation and/or other administrative policies have had the effect of aiding the creation and/or maintenance of racially identifiable schools?

7. Whether the defendant Detroit Board has constructed new schools and made additions to existing schools in a manner that has resulted in the establishment, existence and/or maintenance of racially identifiable schools?

8. Whether the defendant Detroit Board has purchased and/or placed additional school facilities of any type, including, but not limited to, transportables, mobile units, and rented relief space in a manner which has aided in the creation, existence and/or maintenance of racially identifiable schools?

9. Whether the defendant Detroit Board has and does assign racially identifiable faculties to correspondingly racially identifiable student bodies, thereby aiding in the creation and/or maintenance of racially identifiable schools?

10. Whether the defendant Detroit Board has instituted teacher assignment and/or transfer policies which have aided in the creation and/or maintenance of racially identifiable schools?

11. Whether teacher contracts, collective bargaining agreements or any other employment custom or practice may be relied on or utilized to delay, impede or otherwise restrict the total desegregation of the faculty and staff of the Detroit School System?

12. Whether the Detroit Board has by act or omission failed to avail itself of opportunities to eliminate or diminish the racial identifiability of the schools in its system, or to prevent the increase or creation of racially identifiable schools?

13. Whether a policy of neutrality as to any facet of school administration, including pupil and teacher assignments, satisfies the Thirteenth and Fourteenth Amendment obligations of the defendant Detroit Board to provide equal educational opportunities to the school children in its system?

14. Whether the defendant Detroit Board's student and faculty assignment practices have impermissibly segregated students and faculty by race, by reason of the underlying racially segregated residential patterns?

15. Whether the defendant Detroit Board has built upon or does build upon racially segregated residential patterns in the assignment of students and faculty?

16. Whether the policies and practices of public officials with respect to location, building or expansion of public housing units, and tenant admission and assignment thereto, have aided and/or contributed to the creation or existence of racially segregated residential patterns within the City of Detroit?

17. Whether the policies and practices of public officials with respect to the sponsorship, insurance, guarantee or subsidy of private housing has aided and/or contributed to racially segregated residential patterns?

18. Whether any other policies and practices of public officials have contributed to the racially segregated residential patterns in Detroit?

19. Whether the opportunities of blacks and whites for private housing have been restricted on the basis of race by the practices and policies of various public, quasi-public and private persons and organizations?

20. Whether such restrictions on housing opportunities, and their persisting effects, have contributed to racially segregated residential patterns?

21. Whether the racially segregated residential patterns in the City of Detroit have had any effect upon pupil attendance and faculty assignment patterns in the Detroit public schools?

22. Whether the Detroit Board is and has been under an obligation to select from the available alternatives that method of operation which minimizes the effect of such residential segregation?

23. Whether there is any relationship between residential segregation and school segregation in Detroit, including whether Detroit Board policies and their persisting effects such as location and size of schools, pupil assignment policies, teacher assignment policies, feeder patterns, transportation, open school policies and pupil and teacher transfer policies, have caused, aided or contributed to racially segregated residential patterns or have failed to

counteract the effect thereof; and, conversely, whether racial restrictions upon residential choices, and their persisting effects, have caused, aided or contributed to racial identifiability of the Detroit Public Schools?

24. Whether or not there exist or have ever existed in the Detroit School System patterns of school, classroom or course assignment to "tracks," "levels" or so-called "ability groups" which have the effect of denying equal educational opportunities to Detroit school children?

25. Whether the Detroit Board, having initiated a partial plan (i.e., April 7th plan) for providing equal educational opportunities to some of the high school students in the Detroit system, is under a duty to provide complete equality of educational opportunity to all Detroit Public School children by instituting a complete plan of school desegregation?

26. Whether the obligation to remove the racial identity of the schools in its system requires the Detroit Board to immediately modify an existing partial plan of desegregation, such as the April 7th plan, so as to achieve as much desegregation as possible pending preparation and implementation of a complete plan of desegregation?

27. Whether the three-year stair-step approach of the April 7th plan complies with the Detroit Board's Thirteenth and Fourteenth Amendment obligations to eliminate the racial identifiability of its schools at once?

28. Whether a provision in a school desegregation plan (such as the April 7th plan), which exempts from the attendance requirements thereof any student who has a brother or sister enrolled in some school other than that school which such student would otherwise attend under the plan, complies with the Detroit Board's Thirteenth and Fourteenth Amendment obligations to remove the racial identifiability of its schools, where the effect of such plan is the continued enrollment of such students at racially identifiable schools?

29. Whether the Detroit Board should be required to immediately reassign and/or assign individual school instructional personnel in accordance with the system-wide ratio of black and white instructional personnel?

30. Whether the construction or purchase of additional school facilities should be enjoined pending the adoption of a complete plan of desegregation by the Detroit Board?

31. Whether Section 2A of Act 48 is unconstitutional as applied in that it established school administrative regions, which as implemented, have the effect of impeding racial integration of the schools?

32. Whether the requirements of compact and contiguous regions and the drawing of racially separate regions of school administration by a state agency (and the adoption of guidelines by the defendant Detroit Board) have the effect of making more difficult the desegregation of the Detroit schools?

33. Whether, because of the state-established eight racially separate administrative regions, the Detroit Board is prohibited from any delegation of authority to regional boards which diminishes the authority and responsibility of the Detroit Board of Education to desegregate its public shcools, including, if necessary, actions which cross regional boundaries?

34. Whether or not the state defendants have met their admitted constitutional duty with respect to the creation and operation of racially desegregated schools in the City of Detroit?

35. [Pursuant to agreement of all parties and subject to approval of the court, plaintiffs reserve the right to state further issues as perceived.]

III.
STIPULATION OF FACTS

Plaintiffs stipulate and agree to the following:

1. This court has jurisdiction over all parties hereto and issues presented herein.

2. The pupil and faculty ratio counts testified to by the Superintendent on November 4, subject to errors in compilation or computation.

3. All past published racial counts of the defendant Detroit Board.

4. Pupil attendance areas for all years as set forth in the published boundary guidebooks.

5. All published achievement data reports of the Detroit Board.

6. [As discovery approaches completion, plaintiffs expect to stipulate other facts and will state the issues of fact remaining to be litigated at that time.]

IV.
WITNESSES

Plaintiffs will call the following named or designated witnesses:

Dr. Gordon Foster

Dr. Robert Green

Dr. Karl Taeuber

Various School Board Officials and Personnel (to be designated after completion of discovery)

Various Persons Familiar With Housing Patterns and the Housing Market in Detroit

[Upon completion of discovery, plaintiffs may desire to call other witnesses not hereinabove named or designated but will provide reasonable notice to all opposing counsel.]

Respectfully submitted,

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William E. Caldwell
Ratner, Sugarmon & Lucas
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Memphis, Tennessee

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E. Winther McCroom
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Bruce Miller and Lucille Watts,
Attorneys for Legal Redress Committee
N.A.A.C.P., Detroit Branch
3426 Cadillac Towers
Detroit, Michigan, and

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,	)	
Plaintiffs,	)	
-vs-	)	Civil Action
WILLIAM G. MILLIKEN, et al.,	)	No. 35257
Defendants.	)	

PRE-TRIAL STATEMENT

Now come Defendants THE BOARD OF EDUCATION OF THE CITY OF DETROIT, a school district of the first class; PATRICK McDONALD, JAMES HATHAWAY and CORNELIUS GOLIGHTLY, Members of The Board of Education of the City of Detroit; and NORMAN DRACHLER, Superintendent of the Detroit Public Schools (hereinafter collectively called "Detroit Board of Education"), and submits its Pre-Trial Order. This order is submitted to the Court without being presented to either plaintiffs' counsel, counsel for co-defendants or counsel for intervening defendant for reasons previously reported to the Court. It is respectfully requested that should other issues, defenses or claims arise during the course of the trial of this matter that the Detroit Board of Education be permitted to amend this pre-trial statement to conform to the proofs.

I
STATEMENT OF DEFENSES OF DEFENDANT BOARD OF EDUCATION

In response to Plaintiffs' broad Statement of Legal Theory, as Defendant Detroit Board of Education comprehends that theory, the following is submitted as "Statement of Defenses":

A. The Detroit Board of Education has not intentionally acted to separate pupils on the basis of their race. Therefore, the Detroit School System is neither a dual nor a *de jure* segregated school system as Plaintiffs contend.

B. The Detroit Board of Education is under no constitutional duty to overcome residential racial separation. Nevertheless, the Detroit Board of Education recognizes an educational responsibility to integrate its pupils and staff—racially, culturally, economically and religiously—and has voluntarily acted in numerous and substantial ways to fulfill that educational responsibility.

C. The allegation that the school system contains some schools where the student body is predominately Negro and other schools where the student body is predominately white, in and of itself, fails to state a claim upon which relief can be granted.

II
STIPULATION OF FACTS

The jurisdiction of this Honorable Court is stipulated to, and the authenticity of all records obtained from the Detroit Board of Education is likewise stipulated. Further, any statistical data which have been used by the Detroit Board of Education are stipulated without further proof. All questions of relevancy, materiality and other questions of admissibility are reserved as to any evidence submitted by Plaintiffs.

III
ISSUES OF FACT

A. The Detroit Board of Education has not intentionally acted to separate pupils on the basis of their race. Therefore, the Detroit School System is neither a dual nor a *de jure* segregated school system as Plaintiffs contend.

1. Has the Detroit Board of Education intentionally assigned pupils to separate educational facilities on the basis of their race?

B. The Detroit Board of Education is under no constitutional duty to overcome residential racial separation. Nevertheless, the Detroit Board of Education recognizes an educational responsibility to integrate its pupils and staff—racially, culturally, economically and religiously—and has voluntarily acted in numerous and

substantial ways to fulfill that educational responsibility.

1. Has the Detroit Board of Education used sound educational techniques in determining attendance boundaries; or has the Board intentionally employed racially segregated residential patterns for the express purpose of creating or perpetuating racially segregated schools?

2. Has the Board's selection of school sites and construction of new school facilities been on the basis of (a) safety of pupils, (b) accessibility to pupils, (c) access to parks or other recreational facilities, (d) cost economy, (e) replacement of antiquated facilities and (f) mobile population needs; or, has the Board made its selection of sites and decisions to construct new school facilities with the intent to separate pupils on the basis of race?

C. The allegation that the school system contains some schools where the student body is predominately Negro and other schools where the student body is predominately white, in and of itself, fails to state a claim upon which relief can be granted.

1. No factual issue presented.

IV
ISSUES OF LAW

A. The Detroit Board of Education has not intentionally acted to separate pupils on the basis of their race. Therefore the Detroit School System is neither a dual nor a *de jure* segregated school system as Plaintiffs contend.

1. Is the Detroit School System a biracial, dual or *de jure* school system?

B. The Detroit Board of Education is under no constitutional duty to overcome residential racial separation. Nevertheless, the Detroit Board of Education recognizes an educational responsibility to integrate its pupils and staff—racially, culturally, economically and religiously—and has voluntarily acted in numerous and

Assistant Superintendent Coker
Divisional Director Lankton

and other possible employees and administrators of the Detroit Public School System who have as yet to be identified. In addition to these administrators, tentatively it is contemplated that defendant Detroit Board of Education will also call Dr. James Guthrie of the University of California at Berkeley and Dr. Henry Levin of Stanford University. Should other expert witnesses be called, Plaintiffs and Co-Defendants will be notified.

Respectfully submitted,

Miller, Canfield, Paddock and Stone

By /s/_____
George E. Bushnell, Jr.

Attorneys for Defendant Detroit Board of Education
2500 Detroit Bank and Trust Building
Detroit, Michigan 48226
(313) 963-6420

Dated: November 17, 1970

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
v.	)	CIVIL ACTION
WILLIAM G. MILLIKEN, et al., Defendants	)	NO: 35257

RULING ON SCHOOL PLANS SUBMITTED

The purpose back of the Court's order of November 6, 1970 was to impress upon the current Board of Education that it had a duty to act; that it could not sit out its period of service. That, in view of the October 13, 1970 action of the United States Court of Appeals for the Sixth Circuit declaring Section 12 of Act No. 48, of the Michigan Public Acts of 1970 unconstitutional, it was under a legal obligation to proceed as if no obstruction had been placed in the path of the implementation of the April 7, 1970 plan of integration. Additionally, our order provided an opportunity for the Board, whose membership composition was different from that of the April 1970 Board, to reassess policy and to submit such other plan or plans as to it appeared proper.[1]

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[1] Following the adoption of the April Plan, Detroit School officials began preparing procedures to carry the plan into effect at the beginning of the 1970-71 school year. These preparations were contemporaneous with activities in the Michigan legislature which culminated in the passage of Act No. 48, Public Acts of 1970, signed by the Governor into law on July 7, 1970. One of the effects of the Act was to delay the implementation of the April Plan for at least a year. Meanwhile, a recall movement was initiated against the four members of the Board who had voted in favor of the April Plan; a movement which, on August 4, 1970, resulted in the removal of the said members of the Board. These four seats on the Board were vacant at the time of the filing of the complaint in this action, but were filled by appointment by the Governor on August 31, 1970 (terms expiring December 31, 1970). The present Board will cease to exist at the end of this year, and a thirteen-member Board will come into existence on January 1, 1971. Only three of the present Board members will continue on the new Board. The new Board will be composed of five members at large and the eight chairmen of the regional boards.

The Board complied with the timetable set by the Court and submitted two plans differing from the April Plan, and indicated its "priorities" or preferences with respect to the three plans. For the sake of brevity we shall refer to the three plans as the McDonald, the Campbell and the April Plans.[2]

Procedurally the Court has before it for disposition the motion of plaintiffs to order immediate, that is, February 1, 1971 (the beginning of the next semester), implementation of the April Plan, and the defendant Board's alternates in the form of the McDonald and Campbell Plans.

We begin our consideration of the three plans with some generalizations and basic concepts. Society is but a group of beings organized to meet common needs. Child-raising, that is, education, is the first and largest industry of every species, including man. If a given society is to survive it must discharge its responsibility to its young. Fortunately for us, there is something in the nature of man which drives him to develop his peculiar endowments, and it is through learning that we make the best or worst of those endowments. A school system is but one, and perhaps the most important, way in which the human society discharges its responsibility to its young, to itself and to its survival. When we do this well the educator calls it "quality education." In a heterogenous society such as ours we are satisfied that such an education cannot be attained without integration. Our objective then, as the Court sees it, is not integration in itself – which, if achieved in the wrong way, can be counter-productive – but the best education possible, with its sine qua non: integration. Integration for integration's sake alone is self-defeating; it does not advance the cause of integration, except in the short haul, nor does it necessarily improve the quality of education. To put it simply, a good education, to say nothing of the best education, cannot be achieved without integration.

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[2] It should be noted that neither Mr. McDonald nor Mrs. Campbell claims sole credit for the formulation of these plans, but they are their principal architects and spokesmen. Each of these plans represents a composite of contributions from other persons, including, in no small way, those of school staff people.

To place us in our particularized situation, we have in Detroit a community (society) generally divided by racial lines. To make it an effective society in discharging its most important function it is necessary that the people of the city recognize their true goal and take such steps as will assure its attainment. A society best fulfills its educational function when it presents its members, and particularly its young, with equal opportunities to achieve identity, experience stimulation, and attain a decent measure of security. There is within each child an innate force pressing upon him to fulfill whatever potentials he possesses, and an educational system which recognizes this and programs its efforts in this direction is the one most likely to succeed in attaining its goal.

Keeping these basic truths in mind, we turn to a consideration of the plans before the Court. We shall not here recite in detail the features of the three plans which, however, are before us as part of the record.

For the purposes of our present ruling we consider the Campbell, or "Magnet Curriculum" Plan, albeit perhaps an "exciting concept of secondary education," as one which does not lend itself to early implementation because of the programming and operational difficulties which attend it. It is a distinctive departure from past and present practices, and lacks a background of experience. The most obvious question mark concerning it is its impact upon the achievement of identity. It is best viewed as an educational concept meriting study by our educators.

Laying aside the Campbell Plan, we turn to the remaining plans: the April Plan and the McDonald or "Magnet School" Plan. It is the plaintiffs' view, as we understand it, that the Court is limited to considering only the April Plan at this time. This view we do not share. The defendent Board takes the position that, absent a finding that the Detroit school system is a segregated one – an issue necessarily relegated by us to the hearing on the merits – the Court lacks authority to order any plan into effect. It will become plain in the course of our ruling that the Court does not believe this to be so.

The McDonald Plan is intended to achieve integration by pro-

viding a specialized curriculum at certain high schools. Each of such specializing schools would serve two of the eight regions of the school system, with the expectation of drawing students from a wider area, thus bringing about a built-in and, hopefully, a greater degree of integration. The categories of specialization would be Vocational, Business, Arts and Science. The plan is voluntary, and all high schools, including the so-called magnet schools, would offer a regular high school curriculum for students living in the present high school attendance areas.

The April Plan would redraw the school feeder patterns for 11 of the city's 21 high schools (not counting Cass Technical High School) so as to improve integration in the affected schools. It is designed to be progressive in application, affecting some 3,000 students graduating from junior high schools in each of three successive years.

Both the McDonald and April Plans have other features which we do not here detail, but which we take into account in our appraisals.

Comparing the McDonald and April Plans, it appears to us that the April Plan's principal aim is to improve integration by the "numbers," as several witnesses described it. Whether in the long run it will do even that is a serious question. It is a plan which does not take into account the basics which we have heretofore mentioned, and it does not offer incentive to or provide motivation for the student himself. Instead of offering a change of diet, it offers forced-feeding. The McDonald Plan on the other hand, we believe, offers the student an opportunity to advance in his search for identity, provides stimulation through choice of direction, and tends to establish security. That it will promote integration to the extent projected remains to be seen, but based on the experience in this same school system, i.e., Cass Technical High School, it holds out the best promise of effective, long-term integration. It appears to us the most likely of the three plans to provide the children of the City of Detroit with quality education as we have defined it. The McDonald Plan has been characterized by the plaintiffs as an experiment. The short answer to this is that all plans are experiments, just as is life itself. To sum up, in our view

the McDonald Plan is the best of the plans before the Court.

We pass now to considering the role of the Court so far as implementation is concerned. Whether we view the present situation from Court-side or Board-side, it appears to us that the Board is required to proceed with the implementation of the plan. It has on its own shown a preference for the McDonald plan – we believe justifiably so. The question remaining is when to put the plan into effect. There have been expressions by some of the witnesses that any of the three plans could be implemented by February 1, 1971. It appears to us that the McDonald Plan, calling as it does for rather radical and comprehensive changes, cannot be properly implemented until September 1971 – the beginning of the next school year. (We do not mean to imply that any less time would be need for implementation of the other plans.)

If to integrate is "to combine to form a more complete, harmonious or coordinated entity,"[3] then the plan we have chosen is, of the three, most likely to be productive. It places the emphasis not on "desegregation" (representing the legal rights of Blacks),[4] but on "integration" (an ideal of social acceptability).[5]

Added to the already serious problems of administering the affairs of their offices, the members of the Detroit Board of Education, past, present and future, the Superintendent, the administrative staff and the faculty, are beset by a decentralization decree which cannot but involve every aspect of school administration and school programming. The ordered decentralization has been characterized by the Superintendent as a novel one – one never before attempted in any other school district in the United States regardless of size. It introduces confusion over the proper roles of the regional and central boards. That it will lead to

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[3] Webster's Third New International Dictionary.

[4] A Dictionary of American Social Reform.

[5] *Ibid.*

controversies between them appears evident; that it aggravates, not lessens, the problems besetting the administrators is plain; and that it may fan the fires of discontent among the citizenry is likely. If a unified school system for the City of Detroit is the aim, then the combination of centralization and decentralization, with their attendant questions of jurisdiction, control and responsibility, appears to have missed the mark. At the least it will require time and call for much effort on the part of all involved in their several official stations, working cooperatively, to stabilize the Detroit school system into a smoothly working framework of management.[6]

We turn next to the legal posture of the case. Plaintiffs have cited *Alexander* v *Holmes County Board of Education*, 369 U.S. 19, 24 L.Ed.2d 19 (1969), and *Keyes* v. *School District No. One, Denver, Colorado*, 313 F. Supp. 61 (D. Colo. 1970). We consider neither to be in point so far as our present issue is concerned. We cannot at this point proceed on the assumption that plaintiffs will succeed in proving their claim, in the hearing on the merits, that the Detroit school is a segregated school system, de jure or de facto.

While the question of whether the United States Consitution, as interpreted by the Supreme Court of the United States, not only prohibits discriminatory segregation according to races, but also requires integration, has not yet been decided by that Court,[7]

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[6]

What further and additional problems will result from the passage of the so-called Parochiaid Amendment to the Constitution of the State of Michigan, we cannot say. What is obvious is that the proposed closing of some or all Catholic parochial schools in the Detroit diocese will put further strains on the school system of the city.

[7]

There are school cases now pending before the Supreme Court in which it may well have an opportunity to answer that question and respond to the call of Chief Justice Burger to "clear up any confusion concerning the Court's prior mandates in school desegregation cases, and to resolve some of the basic practical problems * * * including whether, as a constitutional matter, any particular racial balance must be achieved in the schools, to what extent school districts and zones may and must be altered as a constitutional matter, and to what extent transportation may or must be provided to achieve the ends sought by prior holdings of the court." See Northcross v. Bd. of Ed. of Memphis, 397 U.S. 232, 25 L.Ed.2d 246 (March 9, 1970).

we believe that consistent with that Court's rulings,[8] where a school district has taken steps enhancing integration in its schools it may not reverse direction. In the setting of our case nonaction is (or amounts to) prohibited action. This is also our reading of the opinion of our court of appeals in ruling upon the appeal taken from our former decisions in this case. The court said:

> "*** In the present case of the Detroit Board of Education in the exercise of its discretion took affirmative steps on its own initiative to effect an improved racial balance in twelve senior high schools. This action was thwarted or at least delayed, by an act of the State legislature."

It also pointed out that "State action cannot be interposed to delay, obstruct or nullify steps lawfully taken for the purpose of protecting rights guaranteed by the Fourteenth Amendment." It follows from this that any action or failure to act by the Board of Education designed in effect to "delay, obstruct or nullify" the previous (April 7th) step toward improving racial balance in the Detroit schools is prohibited State action.

It is our judgment that the McDonald Plan is superior to the other two plans before the Court in advancing the cause of integration, and that preparations should be started immediately for its institution at the beginning of the next full school year in September 1971. The administrative work involved in a transformation to the McDonald Plan requires, and the staff deserves, lead time in which to program and prepare for its establishment.

The course of action taken by the Court will provide the present and incoming Boards a sense of direction, give the administrative staff both direction and time for an orderly transition, and allow students an opportunity to anticipate the changes in educational offerings so that they may exercise the choices which

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[8] See cases cited in the opinion of the Sixth Circuit Court of Appeals in the prior appeal in this cause, pages 10 and 11 of the slip sheet.

will open to them. It is our belief that in this way the students, in their quest for identity and in their inherited drive for realizing their potentials, will bring about such integration as no coercive method could possibly achieve.

The foregoing constitutes our findings of fact and conclusions of law.

An appropriate order may be submitted.

/s/_____
STEPHEN J. ROTH
UNITED STATES DISTRICT JUDGE

DATED: December 3, 1970
at Detroit, Michigan.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	CIVIL ACTION
v.	)	NO. 35257
WILLIAM G. MILLIKEN, et al., Defendants	)	

ORDER

This matter being before the Court upon the motion of plaintiffs for immediate implementation of the April 7 Plan, and upon the motion of the Detroit Board of Education Defendants for continuance of the trial of this cause, and

In accordance with the Court's "Ruling on School Plans Submitted" entered this 3rd day of December, 1970, and in accordance with the Court's "Ruling on Motion for Continuance" entered this 3rd day of December, 1970,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the defendant School Board and its agents, servants and employees shall immediately begin preparations to implement and shall implement at the beginning of the next full school year in September 1971 the plan submitted by defendant School Board designated "Plan A" and also referred to as the "McDonald" Plan;

IT IS FURTHER ORDERED that the trial of this cause heretofore scheduled to commence December 8, 1970 is hereby continued to a date to be fixed by the Court after a review of its calendar and its readjustment.

DATED: December 3, 1970
at Detroit, Michigan.

/s/ _____
STEPHEN J. ROTH
UNITED STATES DISTRICT JUDGE

Approved As to Form:

/s/ _____

Louis R. Lucas
William E. Caldwell
Nathaniel Jones
Jack Greenberg
James M. Nabrit, III
Norman J. Chachkin
Bruce Miller
Lucille Watts
Attorneys for Plaintiffs

_____

for Miller, Canfield, Paddock
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Attorneys for Detroit Board of
Education Defendants

_____

Frank J. Kelley, Attorney General
Eugene Krasicky, Assistant Attorney General
Gerald F. Young, Assistant Attorney General
Attorneys for State Defendants

/s/ _____

for Rothe, Marston, Mazey, Sachs,
O'Connell, Nunn & Freid
Attorneys for Intervenor

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY and RICHARD BRADLEY, by their Mother and Next Friend, VERDA BRADLEY; JEANNE GOINGS, by her Mother and Next Friend, BLANCHE GOINGS: BEVERLY LOVE, JIMMY LOVE and DARRELL LOVE, by their Mother and Next Friend, CLARRISA LOVE; CAMILLE BURDEN, PIERRE BURDEN, AVA BURDEN, MYRA BURDEN, MARCK BURDEN and STEVEN BURDEN, by their Father and Next Friend, MARCUS BURDEN; KAREN WILLIAMS and KRISTY WILLIAMS, by their Father and Next Friend, C. WILLIAMS; RAY LITT and MRS. WILBUR BLAKE, parents; all parents having children attending the public schools of the City of Detroit, Michigan, on their own behalf and on behalf of their minor children, all on behalf of any persons similarly situated; and NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, DETROIT BRANCH,

Plaintiffs

v.

WILLIAM G. MILLIKEN, Governor of the State of Michigan and ex officio member of Michigan State Board of Education; FRANK J. KELLEY, Attorney General of the State of Michigan; MICHIGAN STATE BOARD OF EDUCATION, a constitutional body corporate; JOHN W. PORTER, Acting Superintendent of Public Instruction, Department of Education and ex officio Chairman of Michigan State Board of Education; BOARD OF EDUCATION OF THE

CIVIL ACTION
NO. 35257

CITY OF DETROIT, a school district of the first class; PATRICK McDONALD, JAMES HATHAWAY and CORNELIUS GOLIGHTLY, members of the Board of Education of the City of Detroit; and NORMAN DRACHLER, Superintendent of the Detroit Public Schools,

Defendants

CLASS ACTION ORDER

At a session of said Court held in the Federal Building, City of Detroit, on the 16th day of February, A.D. 1971.

PRESENT: HONORABLE STEPHEN J. ROTH, United States District Judge

The Court having heard counsel for the parties on the question of whether this action can be maintained as a class action, after due deliberation

THE COURT FINDS that this cause of action meets the prerequisites of Rule 23(a) of the Federal Rules of Civil Procedure, and that it comes within the provisions of Rule 23(b) (2) of the Federal Rules of Civil Procedure.

IT IS ORDERED, pursuant to Rule 23(c) (1) that the plaintiff's action may be maintained and hereby is recognized as a class action, Rule 23(b) (2), on behalf of two classes:

1. All school children in the City of Detroit, Michigan;

2. All Detroit resident parents who have children of school age.

The Court takes judicial notice of the fact that this lawsuit has received widespread, pervasive publicity through the mass news media, and that the ordinary news coverage in such mass news media of this order will effectively and adequately place all

interested members of the classes on notice of the pendency of the action, and its nature and purpose;

WHEREFORE, NOTICE IS HEREBY GIVEN that the Court has determined that the plaintiffs in this action represent all school children in the City of Detroit, Michigan, and all Detroit resident parents who have children of school age, and that this action seeks to have declared as unconstitutional the alleged maintenance and perpetuation of a segregated public school system in the City of Detroit, Michigan.

Any member of the classes described above who believes that his interest in the action is not or will not be fairly and adequately represented by the parties plaintiff, shall file his appearance in this cause and accompany the same with a statement of reasons for such belief. Such appearances must be filed with the Clerk of the Court not later than March 8, 1971. In the event appearances or interventions are filed on or before said March 8, 1971, the Court will conduct a hearing on March 15, 1971 at ten o'clock in the forenoon in its Courtroom, 257 Federal Building and Courthouse, Detroit, Michigan, to consider such appearances and/or interventions and to outline procedures to be followed in these proceedings.

/s/ _____
Stephen J. Roth
United States District Judge

DATED: FEBRUARY 16TH, 1971.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,	)	
Plaintiffs	)	**CIVIL ACTION**
vs.	)	**NO: 35257**
WILLIAM G. MILLIKEN, et al.,	)	
Defendants	)	

SUPPLEMENTAL PRE-TRIAL ORDER

The Court having ruled on the standing of parties and having determined that this cause may be maintained as a class action, and the Court having defined the classes involved, the Court has ordered, in accordance with Rule 23(d) (2) of the Federal Rules of Civil Procedure, that notice be given to members of the classes, so that they may move to intervene in this action; and

The Court having conducted a joint hearing and conference on certain pre-trial matters on February 11, 1971, the Preliminary Pre-trial Order heretofore issued in this cause is supplemented and modified as follows:

IT IS ORDERED that any person seeking intervention in this cause file his application on or before March 8, 1971, with the Clerk of the Court;

IT IS FURTHER ORDERED that applications for intervention shall be considered at a hearing to be held at 10:00 a.m. on March 15, 1971;

IT IS FURTHER ORDERED that the parties file a joint Final Pre-trial Order in compliance with the terms of the original Preliminary Pre-trial Order issued in this cause not later than March 22, 1971;

IT IS FURTHER ORDERED that counsel for the parties shall mark and clear, if possible, all proposed exhibits on April 5, 1971;

IT IS FURTHER ORDERED that the matter shall come on for hearing on the merits at 9:30 a.m., Tuesday, April 6, 1971.

/s/_____
STEPHEN J. ROTH
United States District Judge

DATED: February 16, 1971.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,	)	
Plaintiffs,	)	
vs.	)	
WILLIAM G. MILLIKEN, et al.,	)	
Defendants,	)	CIVIL ACTION
and	)	NO. 35257
DETROIT FEDERATION OF TEACHERS, LOCAL 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO,	)	
Intervening Defendant,	)	
and	)	
DENISE MAGDOWSKI, et al.,	)	
Intervening Defendants.	)	

JOINT PRE-TRIAL STATEMENT

I.

GENERAL STATEMENTS OF CLAIMS THEORIES, AND DEFENSES

PLAINTIFFS' STATEMENT

The Detroit public schools are being operated in a manner which violates the Thirteenth and Fourteenth Amendments to the Constitution of the United States.

The Detroit School System operates schools which are racially identifiable as "Negro" and "White" schools, which schools are inherently unequal, and which deny plaintiffs equal educational opportunities.

A school system which operates schools as set out in the preceding paragraph is under an affirmative duty imposed by the Thirteenth and Fourteenth Amendments to remove the racial identifiability of the schools in its system by desegregating the

student bodies of the individual schools and by assigning and/or reassigning faculty members to each school in accordance with the system-wide ratio of black and white faculty members, and by planning and making facility additions in a manner which will promote and maintain racially non-identifiable schools.

BOARD OF EDUCATION DEFENDANTS' STATEMENT

The Board of Education Defendants assert the following three defenses:

A. The Detroit Board of Education has not intentionally acted to separate pupils on the basis of their race. Acts of the Detroit Board of Education which are neutral and do not have as their intent the separation of pupils on the basis of race do not violate its constitutional duty, even if the unintentional and unanticipated effect thereof is to permit schools to exist whose student bodies are predominantly Negro or predominantly white. Therefore, the Detroit School System is neither a dual nor a *de jure* segregated school system as Plaintiffs contend.

B. The Detroit Board of Education is under no constitutional duty to overcome residential racial separation. Nevertheless, the Detroit Board of Education recognizes an educational responsibility to integrate its pupils and staff – racially, culturally, economically and religiously – and has voluntarily acted in numerous and substantial ways to fulfill that educational responsibility.

C. The allegation that the school system contains some schools where the student body is predominately Negro and other schools where the student body is predominately white, in and of itself, fails to state a claim upon which relief can be granted.

STATE DEFENDANTS' STATEMENT

A. That the school administrative regions established under the last sentence of the first paragraph of Section 2a, which are also election regions for the purpose of electing members to the first class district school board, were established to conform to the

requirements of both the Federal Equal Protection Clause and Section 2a and to implement administrative decentralization of the Detroit schools for the purpose of fostering greater community control therein.

B. That the last sentence of the first paragraph of Section 2a and the regions established thereunder are in conformity with the Federal Equal Protection Clause.

C. That the state defendants have not engaged in any affirmative conduct constituting state compelled de jure segregation concerning the establishment of attendance areas, the assignment of school personnel or the location and construction of school buildings and control over such matters is reposed by state statute in the Detroit Board of Education.

INTERVENING DEFENDANT DETROIT FEDERATION OF TEACHERS' STATEMENT

Intervenor submits, on information and belief, that the Detroit Board of Education has not been guilty of state-compelled segregation of faculty and/or students and, therefore, a judicial remedy of desegregation and/or integration of faculty is not required or appropriate.

In the event such a remedy were required, plaintiffs' proposed remedy, namely, that faculty be assigned and/or reassigned in each school of the Detroit system in direct ratio to the over-all ratio of white and black teachers in the system, and without regard to teacher skills, certification, amount of experience, tenure and seniority, or otherwise, is neither required nor appropriate.

STATEMENT OF INTERVENING DEFENDANTS MAGDOWSKI, ET AL.

Intervening Defendants Magdowski, et al. join in the defenses and issues of the Board of Education Defendants.

II.

STATEMENTS OF ISSUES

A. ISSUES RELATING TO BOARD OF EDUCATION DEFENDANTS' DEFENSE A.

Plaintiffs' Issues Relating to Board's Defense A

1. Whether the Detroit Board of Education has acted with the intention or with the result that schools have been established or maintained as racially identifiable units.

a. Whether the defendant Detroit Board has instituted and/or utilized such pupil assignment and transfer policies.

b. Whether the defendant Detroit Board has established, perpetuated and/or maintained such pupil attendance zones and pupil feeder patterns.

c. Whether the defendant Detroit Board's open enrollment policies, optional attendance zones, transportation and/or other administrative policies have had the effect of aiding the creation and/or maintenance of racially identifiable schools?

d. Whether the defendant Detroit Board has constructed new schools and made additions to existing schools in a manner that has resulted in the establishment, existence and/or maintenance of racially identifiable schools?

e. Whether the defendant Detroit Board has purchased and/or placed additional school facilities of any type, including, but not limited to, transportables, mobile units, and rented relief space in a manner which has aided in the creation, existence and/or maintenance of racially identifiable schools?

f. Whether the Detroit Board has by act or omission failed to avail itself of opportunities to eliminate or diminish the racial identifiability of the schools in its system, or to prevent the increase or creation of racially identifiable schools?

g. Whether a policy of neutrality as to any facet of school administration, including pupil and teacher assignments, satisfies the Thirteenth and Fourteenth Amendment obligations of the defendant Detroit Board to provide equal educational opportunities to the school children in its system?

2. Whether the defendant Detroit Board has complied with its affirmative Constitutional duty to operate a public school system without "Negro" and "White" schools, but just schools?

3. Whether the defendant Detroit Board maintains a public school system which denies equality of educational opportunity to Detroit's public school children on the basis of race?

a. Whether or not there exist or have ever existed in the Detroit School System patterns of school, classroom or course assignments to "tracks", "levels" or so-called "ability groups" which have the effect of denying equal educational opportunities to Detroit school children?

b. Whether the Detroit Board, having initiated a partial plan (i.e., April 7th plan) for providing equal educational opportunities to some of the high school students in the Detroit system, is under a duty to provide complete equality of educational opportunity to all Detroit Public School children by instituting a complete plan of school desegregation?

Board of Education Defendants' Issues Relating to Defense A

1. Has the Detroit Board of Education intentionally assigned pupils to separate educational facilities on the basis of their race?

2. Is the Detroit School System a biracial dual, or *de jure* school system?

3. Has the Detroit Board of Education adopted any policies which, although neutral or benign in intent, have had the unintentional and unanticipated effect of creating schools whose student bodies are predominantly Negro or predominantly white?

B. ISSUES RELATING TO BOARD OF EDUCATION DEFENDANTS' DEFENSE B.

Plaintiffs' Issues Relating to Board's Defense B

1. Whether the defendant Detroit Board's student and faculty assignment practices have impermissibly segregated students and faculty by race, by reason of the underlying racially segregated residential patterns?

2. Whether the defendant Detroit Board has built upon or does build upon racially segregated residential patterns in the assignment of students and faculty?

3. Whether the policies and practices of public officials with respect to location, building or expansion of public housing units, and tenant admission and assignment thereto, have aided and/or contributed to the creation or existence of racially segregated residential patterns within the City of Detroit?

4. Whether the policies and practices of public officials with respect to the sponsorship, insurance, guarantee or subsidy of private housing has aided and/or contributed to racially segregated residential patterns?

5. Whether any other policies and practices of public officials have contributed to the racially segregated residential patterns in Detroit?

6. Whether the opportunities of blacks and whites for private housing have been restricted on the basis of race by the practices and policies of various public, quasi-public and private persons and organizations?

7. Whether such restrictions on housing opportunities, and their persisting effects, have contributed to racially segregated residential patterns?

8. Whether the racially segregated residential patterns in the City of Detroit have had any effect upon pupil attendance and faculty assignment patterns in the Detroit public schools?

9. Whether the Detroit Board is and has been under an obligation to select from the available alternatives that method of operation which minimizes the effect of such residential segregation?

10. Whether there is any relationship between residential segregation and school segregation in Detroit, including whether Detroit Board policies and their persisting effects such as location and size of schools, pupil assignment policies, teacher assignment policies, feeder patterns, transportation, open school policies and pupil and teacher transfer policies, have caused, aided or contributed to racially segregated residential patterns or have failed to counteract the effect thereof; and, conversely, whether racial restrictions upon residential choices, and their persisting effects, have caused, aided or contributed to racial identifiability of the Detroit Public Schools?

Board of Education Defendants' Issues Relating to Defense B

1. Has the Detroit Board of Education used sound educational techniques in determining attendance boundaries; or has the Board intentionally employed racially segregated residential patterns for the express purpose of creating or per-

petuating racially segregated schools?

2. Has the Board's selection of school sites and construction of new school facilities been on the basis of (a) safety of pupils, (b) accessibility to pupils, (c) access to parks or other recreational facilities, (d) cost economy, (e) replacement of antiquated facilities and (f) mobile population needs; or, has the Board made its selection of sites and decisions to construct new school facilities with the intent to separate pupils on the basis of race?

3. Does the Detroit Board of Education have a constitutional duty to reject the use of sound educational techniques and factors, including student residence, as determinants of school attendance?

4. Does the Detroit Board of Education have a constitutional duty to reject the educationally sound factors of pupil safety, accessibility, access to parks and recreational facilities, cost economy, replacement of antiquated facilities and mobile population needs in determining site locations for school facilities?

C. ISSUES RELATING TO BOARD OF EDUCATION DEFENDANTS' DEFENSE C.

Plaintiffs' Issues Relating to Board's Defense C

Plaintiffs see no issues presented.

Board of Education Defendants' Issues Relating to Defense C

1. Does the fact of variance in the racial composition of the student bodies at schools in the Detroit School System, in itself, constitute a violation of the United States Constitution?

D. ISSUES RELATING TO FACULTY ASSIGNMENT.

Plaintiffs' Issues Relating to Faculty Assignment

1. Whether the pupil and faculty assignment policies of the defendant Detroit Board have failed and do fail to provide all persons with the same right to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, in violation of 42 U.S.C. § 1981 and the Thirteenth and Fourteenth Amendments?

2. Whether the defendant Detroit Board has and does assign racially identifiable faculties to correspondingly racially identifiable student bodies, thereby aiding in the creation and/or maintenance of racially identifiable schools?

3. Whether the defendant Detroit Board has instituted teacher assignment and/or transfer policies which have aided in the creation and/or maintenance of racially identifiable schools?

4. Whether teacher contracts, collective bargaining agreements or any other employment custom or practice may be relied on or utilized to delay, impede or otherwise restrict the total desegregation of the faculty and staff of the Detroit School System?

5. Whether the Detroit Board should be required to immediately reassign and/or assign individual school instructional personnel in accordance with the system-wide ratio of black and white instructional personnel?

Board of Education Defendants' Issues Relating to Faculty Assignment

1. Does the United States Constitution prohibit the assignment of educational and administrative personnel to school facilities in accordance with the balanced staff concept, which concept involves balancing of staff with respect to race, age, sex and experience?

Intervening Defendant Detroit Federation of Teachers Issues Relating to Faculty Assignment

1. Whether the Detroit Board of Education has been guilty of state-compelled segregation of faculty and/or pupils which requires a remedy of desegregation and/or integration of faculty;

2. Whether, in the event a remedy of desegregation and/or integration of faculty is required, a remedy of assignment and/or reassignment of faculty is required and/or appropriate that faculty be assigned and/or reassigned in each school of the Detroit school system in direct ratio to the over-all ratio of white and black teachers in the system, and without regard to teacher skills, certification, amount of experience, tenure and seniority, or otherwise.

E. ISSUES RELATING TO THE STATE DEFENDANTS

Plaintiffs' Issues Relating to State Defendants

1. Whether Section 2A of Act 48 is unconstitutional as applied in that it established school administrative regions, which as implemented, have the effect of impeding racial integration of the schools?

2. Whether the requirements of compact and contiguous regions and the drawing of racially separate regions of school administration by a state agency and the adoption of guidelines by the defendant Detroit Board have the effect of making more difficult the desegregation of the Detroit schools?

3. Whether, because of the state-established eight racially separate administrative regions, the Detroit Board is prohibited from any delegation of authority to regional boards which diminishes the authority and responsibility of the Detroit Board of Education to desegregate its public schools, including, if necessary, actions which cross regional boundaries?

4. Whether or not the state defendants have met their constitutional duty with respect to the creation and operation of racially desegregated schools in the City of Detroit?

State Defendants' Issues Relating to State Defendants

1. Whether the last sentence of the first paragraph of Section 2a, as applied, is violative of the Federal Equal Protection Clause as constituting invidious racial discrimination?

2. Whether the state defendants have engaged in any affirmative conduct constituting state compelled de jure segregation concerning the establishment of attendance areas, the assignment of school personnel or the location and construction of school buildings or facilities in the Detroit schools?

F. ALL PARTIES RESPECTFULLY RESERVE THE RIGHT TO STATE OR RAISE FURTHER ISSUES, DEFENSES, OR THEORIES AS PERCEIVED OR AS RAISED BY THE PROOFS

III.

STIPULATION OF FACTS

The jurisdiction of this Honorable Court is stipulated to, and the authenticity of all records obtained from the Detroit Board of Education is likewise stipulated. Further, any statistical data which have been used by the Detroit Board of Education are stipulated without further proof. All questions of relevancy, materiality and other questions of admissibility are reserved as to any evidence submitted by any party.

IV.

WITNESSES

A. Plaintiffs will call the following named or designated witnesses:

Dr. Gordon Foster
Dr. Robert Green
Dr. Karl Taeuber

Various School Board Officials and Personnel (to be designated after completion of discovery)

Various Persons Familiar With Housing Patterns and the Housing Market in Detroit

[Upon completion of discovery, plaintiffs may desire to call other witnesses not hereinabove named or designated but will provide reasonable notice to all opposing counsel.]

B. As of this time, the Detroit Board of Education intends to call, as witnesses, the following:

Superintendent Drachler
Deputy Superintendent McCarthy
Deputy Superintendent Johnson
Deputy Superintendent McCutcheon
Assistant Superintendent Coker
Divisional Director Lankton

and other possible employees and administrators of the Detroit Public School System who have as yet to be identified. In addition to these administrators, tentatively it is contemplated that defendant Detroit Board of Education will also call Dr. James Guthrie of the University of California at Berkeley and Dr. Henry Levin of Stanford University. Should other expert witnesses be called, Plaintiffs and Co-Defendants will be notified.

C. Whether the state defendants will call any witnesses is dependent upon plaintiffs' proofs.

D. Intervenor Detroit Federation of Teachers may call Mary Ellen Riordan, John Elliott and/or others dependent on plaintiffs' proofs.

E. Intervenor Magdowski, et al may wish to call witnesses dependent on plaintiffs' proofs.

Respectfully Submitted,

/s/ _____

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al,	)	
Plaintiffs,	)	
v.	)	**No. 35257**
WILLIAM G. MILLIKEN, et al,	)	
Defendants.	)	

MOTION TO DISMISS ON BEHALF OF DEFENDANTS WILLIAM G. MILLIKEN, GOVERNOR OF THE STATE OF MICHIGAN, AND FRANK J. KELLEY, ATTORNEY GENERAL OF THE STATE OF MICHIGAN.

Now come defendants William G. Milliken, Governor of the State of Michigan, and Frank J. Kelley, Attorney General of the State of Michigan, by their attorney, Eugene Krasicky, Assistant Attorney General, and, pursuant to FR Civ P 41(b), respectfully move this Honorable Court to dismiss plaintiffs' complaint with prejudice on the ground that upon the facts and the law plaintiffs have shown no right to relief as against these defendants.

FRANK J. KELLEY
Attorney General

/s/

Eugene Krasicky
Assistant Attorney General

Gerald F. Young
Assistant Attorney General

Business Address:
Seven Story Office Building
525 West Ottawa
Lansing, Michigan 48913

May___, 1971

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al,)
Plaintiffs,)
v.) No. 35257
WILLIAM G. MILLIKEN, et al,)
Defendants.)

MOTION TO DISMISS ON BEHALF OF DEFENDANTS MICHIGAN STATE BOARD OF EDUCATION AND JOHN W. PORTER, SUPERINTENDENT OF PUBLIC INSTRUCTION.

Now come defendants Michigan State Board of Education and John W. Porter, Superintendent of Public Instruction, by their attorney, Eugene Krasicky, Assistant Attorney General, and, pursuant to FR Civ. P 41(b), respectfully move this Honorable Court to dismiss plaintiffs' complaint with prejudice on the ground that upon the facts and the law plaintiffs have shown no right to relief as against these defendants.

FRANK J. KELLEY
Attorney General

/s/

Eugene Krasicky
Assistant Attorney General

Gerald F. Young
Assistant Attorney General

Business Address:
Seven Story Office Building
525 West Ottawa
Lansing, Michigan 48913

May___, 1971

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al,	)	
Plaintiffs,	)	
-vs-	)	
WILLIAM G. MILLIKEN, et al,	)	
Defendants,	)	
and	)	**Civil Action**
DETROIT FEDERATION OF TEACHERS	)	**No. 35257**
LOCAL 231, AMERICAN FEDERATION	)	
OF TEACHERS, AFL-CIO,	)	
Intervening Defendant,	)	
and	)	
DENISE MAGDOWSKI, et al,	)	
Intervening Defendants	)	

MOTION TO JOIN ADDITIONAL PARTIES DEFENDANT

NOW COMES Denise Magdowski, et al, intervening defendants, by Alexander B. Ritchie their attorney, and moves this Court to join as additional defendants those school districts set forth in Exhibits A through C-1 attached to said motion for the reason that, as shown by proofs already presented by the plaintiffs, Bradley, et al and by the defendant, Detroit Board of Education, and unchallenged by state defendants, William G. Milliken, Frank Kelley and State Board of Education.

1. That said suburban school districts are agents of the State of Michigan and subject to the jurisdiction and supervision of the State Board of Education.

2. That said school districts are white segregated school districts.

3. That questions of law and fact common to the defendant, School District of the City of Detroit, and proposed additional suburban school districts have been presented to this Court.

4. In the event that this Court rules for the plaintiff, in the absence of joinder of the proposed school districts, complete relief cannot be awarded the plaintiff, and in addition would impose an unconstitutional burden on the intervening defendant, in that the resulting school district of the City of Detroit would be and will remain as established by the proofs already submitted an inferior school district.

Concurrence in this motion has been requested of and has been denied by the State defendants, Milliken, Kelly, and State Board of Education, and by defendant, Detroit Board of Education.

WHEREFORE, your petitioner requests:

a) That an order be entered by this honorable Court joining those suburban school districts, as set forth in Exhibits A through C-1, to this cause.

b) That a hearing on this motion be held on Monday, July 26, 1971 at 9:30 A.M. or as soon as just and equitable, this honorable Court being requested herein to exercise its discretion and waive the customary 10 day rule.

/s/

ALEXANDER B. RITCHIE
Attorney for Intervening Defendants,
Denise Magdowski, et al
2555 Guardian Building
Detroit, Michigan 48226
965-5565

Dated: June 17, 1971

COUNTY Wayne

	Indian	Black	Spanish Oriental	Other	White	TOTAL
DISTRICT Detroit	374	177,942	677	3979	105284	288256
Allen Park	15	5	16	74	6412	6522
Cherry Hill	2	15	11	38	5061	5127
Dearborn	27	2	43	184	21378	21634
Dearborn Hts.	45	0	20	67	5494	5626
Melvindale N Allen Park	9	0	30	176	5359	5574
Garden City	22	0	19	108	13704	13853
Grosse Pointe	2	1	11	23	13286	13323
Hamtramck	12	905	9	46	2072	3044
Highland Park	8	6158	153	25	1493	7837
Inkster	1	3962	1	8	652	4624
Lincoln Park	29	6	21	325	11836	12217
Livonia	23	8	91	176	37807	38105
Plymouth Comm.	5	3	13	32	9247	9300
Redford Union	5	2	9	25	9636	9677
River Rouge	15	1723	8	43	2069	3858
Romulus	11	961	12	33	4433	5450
South Redford	1	0	8	12	7852	7883
Taylor Township	39	303	39	249	19374	20004
Trenton	7	3	11	20	6877	6918
Wayne Comm.	49	21	40	179	22225	22514
Wyandotte	14	1	13	41	8334	8403
Flat Rock	5	4	4	16	2171	2200
Fairlane	0	0	1	0	1187	1188

COUNTY Wayne (Cont.)

	Students					TOTAL
	Indian	Black	Oriental	Chicano	White	
DISTRICT North Dearborn Heights	4	0	13	11	2737	2765
Crestwood	10	0	0	20	5243	5282
Westwood	8	1842	15	22	3233	5120
Ecorse	3	2268	3	256	1811	4341
Gibralter	3	0	2	9	2918	2932
Grosse Ile	3	0	6	8	2332	2349
Harper Woods	3	0	3	0	1975	1981
Heintzen	7	0	10	34	4100	4151
Huron	8	16	2	23	2245	2294
Wood Haven	11	4	5	28	1350	1398
Northville	1	0	8	6	3105	3120
Riverview	11	0	4	25	3625	3665
Southgate	35	0	16	67	5495	5613
Van Buren	10	310	23	40	6704	7087

Source: Michigan School Racial Census, 1969-70

Allen [illegible]	0	1	0	1	[illegible]	[illegible]
Cherry Hill	0	1	0	0	184	185
Dearborn	0	3	1	0	1023	1027
Dearborn Hts.	1	0	0	0	216	217
Melvindale Park	1	0	2	1	205	209
Garden City	1	0	2	2	486	491
Grosse Pointe	0	1	0	0	583	584
Hamtramck	0	12	0	0	110	122
Highland [illegible]	0	138	1	1	[illegible]	360
Inkster	0	131	0	0	26	157
Lincoln Park	2	0	1	2	446	451
Livonia	0	6	1	3	1362	1372
Riverwood [illegible]	1	0	0	2	352	355
Redford [illegible]	1	0	1	0	294	296
River Rouge	0	75	0	0	94	172
Romulus	0	59	0	2	155	216
South Redford	0	1	0	2	349	352
Taylor [illegible]	0	5	0	1	637	643
Trenton	0	0	1	0	261	262
Wayne County	1	8	1	0	867	877
Westland	0	0	0	0	338	338
Flat Rock	0	0	0	0	87	87
Fairlane	0	0	0	0	57	57

COUNTY Wayne (Cont)

	Teachers					TOTAL
	Indian	Black	Oriental	Chicano	White	
DISTRICT North Dearborn Heights	0	0	0	0	113	113
Crestwood	0	0	0	0	169	169
Westwood	0	28	0	1	129	158
Ecorse	0	76	0	0	100	176
Gibralter	0	0	0	0	107	107
Grosse Ile	0	0	0	1	103	104
Harper Woods	0	0	0	0	87	87
Heintzen	1	0	0	0	138	139
Huron	0	0	0	0	87	87
Wood Haven	0	0	0	0	53	53
Northville	0	1	0	0	122	123
Riverview	0	0	0	0	166	166
Southgate	0	0	0	1	198	199
Van Buren	1	5	0	0	272	278

Source: Michigan School Racial Census, 1969-70

DISTRICT [illegible]	8	5	65	20	17413	17513
Ferndale	5	799	37	44	7411	8376
Pontiac	22	7504	55	1117	15780	24478
Royal Oak	6	2	46	41	19171	19267
Berkley	4	8	16	28	8348	8404
Southfield	5	5	67	48	16221	16346
Avondale	2	0	16	23	3865	3906
Bloomfield Hills	1	35	37	20	9345	9438
Clarenceville	7	0	7	12	3892	3918
Novi	4	8	6	1	1693	1712
Oxford	4	3	3	5	2802	2817
Hazel Park	13	0	15	33	7922	7983
Madison Hts.	10	2	18	35	4643	4708
Troy	2	0	6	6	5939	5953
West Bloomfield	0	0	9	27	4736	4772
Brandon	0	0	0	16	1797	1813
Clarkston	4	25	3	27	6406	6465
Farmington	15	9	34	55	16226	16339
Holly	11	46	10	38	3308	3413
Huron Valley	7	1	4	22	6915	6949
Lake Orion	5	8	8	32	5325	5378
South Lyons	8	25	2	7	3110	3152
Oak Park	0	590	14	3	5260	5867
Rochester	3	10	6	7	8352	8378

	Indian	Black	Oriental	Hispanic	White	Total
DISTRICT Birmingham	0	2	0	1	791	794
Ferndale	0	43	0	0	309	352
Pontiac	1	263	3	2	698	967
Royal Oak	0	4	1	2	789	796
Berkley	0	0	0	0	352	352
Southfield	1	3	0	4	727	735
Avondale	0	0	0	1	155	156
Bloomfield Hills	0	1	0	0	404	405
Clarenceville	0	0	0	0	162	162
Novi	0	0	0	0	75	75
Oxford	0	0	0	0	102	102
Hazel Park	0	4	1	1	305	311
Madison Hts	1	0	1	0	186	188
Troy	0	1	1	0	249	251
West Bloomfield	0	0	0	0	189	189
Brandon	0	0	0	0	68	68
Clarkston	0	0	1	0	248	249
Farmington	0	0	2	0	636	638
Holly	0	1	0	0	127	128
Huron Valley	1	4	0	0	261	266
Lake Orion	0	0	0	0	187	187
South Lyons	0	1	1	0	126	128
Oak Park	0	22	1	0	288	311
Rochester	0	2	1	0	309	312
Clawson	0	0	0	0	206	206

COUNTY [illegible]

	Indian	Black	Teachers Oriental	Chicano	[illegible]	TOTAL
DISTRICT [illegible]	0	0	0	1	270	271
Walled Lake	0	1	1	2	420	424
Waterford Twp	2	1	2	2	571	57[illegible]

Source: Michigan School Racial Census, 1969-70

COUNTY Macomb

DISTRICT	Students Indian	Black	Oriental	Chicano	White	TOTAL
Centerline	11	3	21	45	6785	6865
East Detroit	13	6	26	97	12689	12831
Roseville	29	213	24	81	14387	14734
Anchor Bay	1	51	9	20	2618	2699
Armada	2	1	3	26	1468	1500
Clintondale	8	377	14	48	4551	4998
Chippewa Valley	0	4	5	8	2772	2789
Fitzgerald	3	0	14	27	5330	5374
Fraser	0	1	8	25	7270	7304
Lakeshore	1	48	19	14	9539	9621
Lakeview	6	0	13	12	7720	7751
L'Anse Creuse	11	34	7	42	7541	7635
Mt. Clemens	8	1421	17	84	5371	6901
New Haven	1	317	6	67	1361	1752
Richmond	0	2	1	6	1841	1850
Romeo	0	75	1	24	3698	3798
South Lake	10	0	9	11	5276	5306
Utica	14	8	32	54	19965	20073
Van Dyke	23	2	15	46	7106	7192
Warren	35	52	93	100	29712	29993
Warren Woods	11	0	11	15	8921	8958

Source: Michigan School Racial Census, 1969-70

COUNTY Macomb

	Indian	Black	Teachers Oriental	Chicano	White	TOTAL
DISTRICT Centerline	0	1	0	0	261	262
East Detroit	0	1	0	0	500	501
Roseville	1	38	0	3	534	576
Anchor Bay	0	2	0	0	99	101
Armada	0	0	0	0	55	55
Clintondale	0	34	6	1	145	186
Chippewa Valley	0	0	0	0	104	104
Fitzgerald	0	0	0	0	228	228
Fraser	0	0	1	0	251	252
Lakeshore	0	2	0	1	370	373
Lakeview	0	0	0	0	322	322
L'Anse Creuse	0	2	2	1	281	286
Mt. Clemens	0	33	0	0	232	265
New Haven	0	4	0	1	71	76
Richmond	0	0	0	0	69	69
Romeo	0	0	0	0	144	144
South Lake	0	0	0	1	194	195
Utica	0	0	1	1	759	761
Van Dyke	0	0	3	1	289	293
Warren	0	2	1	3	1179	1185
Warren Woods	0	1	0	1	337	339

Source: Michigan School Racial Census, 1969-70

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY and RICHARD BRADLEY, et al., Plaintiffs,	)	
-vs.-	)	
WILLIAM G. MILLIKEN, Governor of the State of Michigan, et al., Defendants.	)	Civil Action No. 35257
DETROIT FEDERATION OF TEACHERS, LOCAL 231, et al., Intervening Defendants.	)	

ORDER

The State Defendants, the Governor, Attorney General, State Superintendent of Education and State Board of Education at the close of Plaintiff's case in chief filed, pursuant to Rule 41 (b) FRCP, a motion to dismiss the action on the ground that upon the facts and the law Plaintiffs had shown no right to relief. The Court has heard arguments and received the briefs of the parties and upon due consideration, it is hereby ordered that as to each and all of the moving defendants the motion is denied.

STEPHEN J. ROTH
UNITED STATES DISTRICT JUDGE

DATE: June 25, 1971

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
vs.	)	
WILLIAM G. MILLIKEN, et. al., Defendants	)	
DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor	)	Civil Action No. 35257
and	)	
DENISE MAGDOWSKI, et al., Defendants-Intervenor	)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This action was commenced August 18, 1970, by plaintiffs, the Detroit Branch of the National Association for the Advancement of Colored People and individual parents and students, on behalf of a class later defined by order of the Court dated February 16, 1971, to include all school children of the City of Detroit and all Detroit resident parents who have children of school age. Defendants are the Board of Education of the City of Detroit, its members and is former superintendent of schools, Dr. Norman A. Drachler, the Governor, Attorney General, State Board of Education and State Superintendent of Public Instruction of the State of Michigan. In their complaint, plaintiffs attacked a statute of the State of Michigan known as Act 48 of the 1970 Legislature on the ground that it put the State of Michigan in the position of unconstitutionally interfering with the execution and operation of a voluntary plan of partial high school desegregation (known as the April 7, 1970 Plan) which had been adopted by the Detroit Board of Education to be effective beginning with the fall 1970 semester. Plaintiffs also alleged that the Detroit Public

School System was and is segregated on the basis of race as a result of the official policies and actions of the defendants and their predecessors in office.

Additional parties have intervened in the litigation since it was commenced. The Detroit Federation of Teachers (DFT) which represents a majority of Detroit public school teachers in collective bargaining negotiations with the defendant Board of Education, has intervened as a defendant, and a group of parents has intervened as defendants.

Initially the matter was tried on plaintiffs' motion for preliminary injuction to restrain the enforcement of Act 48 so as to permit the April 7 Plan to be implemented. On that issue, this Court initially ruled that plaintiffs were not entitled to a preliminary injuction since there had been no proof that Detroit was a segregated school system. The Court of Appeals held, however, that any such interference by the state with a determination of a local school board to pursue the goals of racial equality was forbidden and that, at a minimum, the state must pursue a course of scrupulous neutrality and avoid steps whose effect can only be to heighten or maintain racial segregation. 433 F.2d 897 (6th Cir. 1970).

The plaintiffs then sought to have this Court direct the defendant Detroit Board to implement the April 7 Plan by the start of the second semester in order to remedy the deprivation of constitutional rights wrought by the unconstitutional statute. In response to an order of the Court, defendants suggested two other plans in addition to the April 7 Plan which they contended would result in integration promised by the April 7 Plan. The Court, although concluding that in this context "nonaction is (or amounts to) prohibited action," rejected the Plaintiffs' arguments against the "magnet" plan at that time and approved it rather than ordering April 7 implemented. Again, plaintiffs appealed but the appellate court refused to pass on the merits of the plan. Instead, the case was remanded with instructions to proceed immediately to a trial on the merits of plaintiffs' substantive allegations about the Detroit School System. 438 F.2d 945 (6th Cir. 1971).

That trial began April 6, 1971 and concluded on July 22, 1971 consuming forty-one trial days along with several brief recessed necessitated by demands upon the time of Court and counsel. Plaintiffs introduced substantial evidence in support of their contentions, including expert and factual testimony, demonstrative exhibits and School Board documents. At the close of plaintiffs' case in chief, the Court ruled that they had presented a prima facie case of state imposed segregation in the Detroit Public Schools; accordingly, the Court enjoined (with certain exceptions) all further school construction in Detroit pending the outcome of the litigation.

The Court has also denied the motion to dismiss filed by state defendants at the conclusion of plaintiffs' case in chief. The proof adduced by the plaintiffs was not solely limited to the role played by the Detroit Board, its predecessors and employees, in bringing about the present highly segregated condition of the public schools. It also demonstrated inescapably that the State of Michigan and its agencies have by acts and omissions seemingly violative of its obligation under the Michigan Constitution, contributed toward bringing about this result. Furthermore, one of the intervening defendants has filed a motion to require 85 suburban school districts to participate in any school desegregation the Court might order.

On the basis of the proofs presented at trial and at the previous hearings in this cause, the Court makes the following findings of fact and conclusions of law.*

FINDINGS OF FACT

1. During the 1970-71 school year defendant Detroit Board of Education operated 282 regular attendance-area schools, enrolling 277,578 students of whom 177,079, or 63.8%, were

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*"P.X." and "D.X." references are to plaintiffs' exhibits and defendants' exhibits, respectively. Citations to the trial transcript are in the form " Tr. " indicating the volume and page numbers (e.g., 20 Tr. 2000). Citations to transcripts of previous hearings are preceded by the hearing date (e.g., 11/4/70 Tr. 100). Citations to depositions which have been admitted into evidence are in similar form.

Negro.[1] [P.X. 128B, 152A].

2. These figures compare with 251 attendance-area [hereinafter, "regular"] schools in operation in 1960-61 with an enrollment of 275,021 of whom 126,278, or 45.9%, were black. [P.X. 128A, 152A].

3. Of the 251 regular schools in operation in 1960-61, 171 or 68% were 90% or more one race (71 black, 100 white). [P.X. 150, 128A]. Of the 282 regular schools in current operation, 202 or 71.6% serve student enrollments which are 90% or more one race (133 are black, 69 are white). [P.X. 150, 128B].

4. In 1960-61, 65.8% of the total number of black students in regular schools were in schools 90% or more black. In 1970-71 the percentage of black students in schools 90% or more black had increased to 74.9%. [P.X. 129; 32 Tr. 3382-83].

5. Every school which was 90% or more black in 1960, and which is still in use today, remains 90% or more black. [P.X. 150; 32Tr. 3381-82].

6. In 1960-61 there were 9,884 teachers, of whom 2,366 or 23.9% were black, assigned to regular schools. In 1970-71, 11,616 teachers, of whom 4,853 or 41.8% were black, were assigned to regular schools. [P.X. 152B; *cf.* P.X. 100J at p. 2 showing all faculties 1960-61 to 1970-71.]

7. In 1963 there were 99 schools with instructional staffs less than 10% black (of which 41 had no black staff members) and 72 schools with instructional staffs 50% or more black. By 1970-71 the Board had reduced to 12 the number of schools with less than 10% black faculties, but the number of schools with 50% or more black faculties had increased to 124. [P.X. 100J at p. 3].

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[1] In addition the Board operated 23 various non-attendance area schools enrolling 8,130 students of whom 5,386 were black (P.X. 100J at p. 127). The Board also had 4,146 students, of whom 1,798 were black, enrolled in special adult programs. (P.X. 100J at p. 6).

8. The public schools operated by defendant Board are thus segregated on a racial basis. This racial segregation is the result of the discriminatory acts and omissions of defendant Board, which include the following:

A. Faculty

9. Prior to 1962 the Board operated an admittedly discriminatory policy and practice of faculty assignment. [38 Tr. 4340]. Until 1955 the Board assigned black teachers to schools which were predominantly black, but never assigned black teachers to schools which were 50% or more white. [20Tr. 2185]. Until 1964 no black person was ever made Principal of a high school. [20 Tr. 2185-86].

10. In 1962 the Board-appointed Citizens Advisory Committee on Equal Educational Opportunities found:

> As to placement of teachers, the subcommittee finds that, with only a few exceptions, Negro teachers are placed only where there are Negro children in attendance at school.

[P.X. 3 at p. 75; *see also* 20 Tr. 2182]. The EEO Committee further found, and the evidence demonstrates, "that there is a tendency for the proportion of Negro teachers in a school to increase as the proportion of Negro pupils increases." [P.X. 3 at 75]. For example, in 1955 Central High School was 70% white but incurred faculty integration for the first time with the assignment of a black counselor and a black teacher. But by 1970 Central was 100% black and its faculty was 55.9% black [20 Tr. 2180; P.X. 130], whereas the system-wide faculty was only 41.8% black. [P.X. 152B] *See generally* P.X. 3 at 76.

11. The 1962 EEO finding (P.X. 3 at 73)

> that the Board of Education has followed a practice of (1) assigning Negro teachers predominantly within certain districts where there are large numbers of Negro pupils, and (2) assigning Negro teachers chiefly to racially mixed schools, in many cases on a proportional basis. If there are no Negro

children in a school, no Negro teachers are assigned there; this rule has few exceptions to date,

is clearly demonstrated by the testimony and exhibits. [P.X. 3 at 72-79 (esp. map facing p. 78), 92-134 (appendices-esp. graphs on pp. 98-106); P.X. 154A].

12. The EEO Committee further found "that placement of teachers by the Detroit Board of Education follows in general, and with some departures, a definite racial pattern. . . .[and that] Data also show that Negro administrators are placed only where Negro children and Negro teachers are in the majority." [P.X. 3 at 79]. The Court finds that the discriminatory assignment of administrators persists, as is shown by the following table taken from the October 1970 racial census, P.X. 100J, p. 10-20 (*see also* 22 Tr. 2511-13):

Predominately white Constellations	Administrators	
Cody	3 Negro	55 white
Ford	3 Negro	41 white
Redford	1 Negro	46 white
Osborn	2 Negro	42 white
Denby	1 Negro	30 white
Finney	8 Negro	44 white
Predominately black Constellations	**Administrators**	
King	35 Negro	22 white
Central	23 Negro	23 white
Northwestern	25 Negro	23 white
Northern	24 Negro	24 white
Northeastern	30 Negro	29 white

13. The EEO committee further found, and the evidence demonstrates, discriminatory practices regarding the placement of ESRPs and probationary teachers. "[W]henever Emergency Substitutes

or Probationary I's and II's are Negroes, they are assigned to only 5 of the 9 districts." [P.X. 3 at 74]. The Committee further found "that a large number of . . . [ESRPs and probationary teachers] are currently assigned to 3 [black] districts - the Center, Southeast and East Districts . . . ." [P.X. 3 at 83, 96-97].

14. In 1963 the Committee on Schools of the Detroit Commission on Human Relations reported to the Board its appraisal of "the regular opportunities of the administrative staff to place personnel on the basis of qualifications and preparation." The Commission "found that in 1960-61, 51% of the school personnel were involved in personnel transactions, and in the following year, 54% or 10,429 contract personnel were involved. Many of these changes represented significant opportunities to demonstrate a pattern of teacher assignment without regard to race." [P.X. 177 at 2]. The Commission found that despite these opportunities the conditions reported by the 1962 EEO Committee "remains virtually unchanged." Again, in 1964, the same group, at the request of the Board, examined the 1963 racial count data. Their findings reported to the Board and which are uncontradicted in this record were (P.X. 178 at 2-3):

> In October, 1963, Negro teachers were not assigned on the staff of 56 of the city's 281 schools. Not one of the city's 2,592 Negro teachers were assigned to 52 (or 25%) of the elementary schools and 4 of the junior high schools.
>
> In October, 1963, those schools which had from 0 to 4 Negro teachers on their staff numbered 135, or approximately one half of the city's schools. In these 135 schools, a total of 182 (or 7%) of the Negro teachers were found 3,428 white teachers were on the faculties of these 135 schools.
>
> In October, 1963, those schools which had 5 or more Negro teachers on their staffs numbered 146, or approximately the remaining one half of the city's schools. In these 146 schools, a total of 2,410 (or 93%) of the Negro teachers were found. 3,759 white teachers were on these school faculties.
>
> . . . . .
>
> In March, 1963, it was found that as the number of Negro

pupils in any particular school increased, the number of Negro teachers in that school also increased. . .

. . . . . .

In the 135 schools with 0 to 4 Negro teachers on their staffs, 6% or 9,082 Negro pupils were found and 7%, or 182 Negro teachers were found.

In the remaining 146 schools with 5 or more Negro teachers on their staffs, 94%, or 141,844 Negro pupils were found and 93%, or 2,410 Negro teachers were found.

In October, 1963, 102 elementary schools were found in the category of from 0 to 4 Negro teachers on their staff. Between March 30, 1963 and October 1, 1963, 385 placements were made in these 102 elementary schools. The result of these 385 placements was the net addition of only 35 Negro teachers to these faculties.

In October, 1963, 52 elementary schools had no Negro teachers on their staff. 10 of these 52 schools which acquired no Negro teachers before October, 1963, expanded their faculties by a total of 33 additional teachers between March and October, 1963.

. . . . . .

In the 4 new schools with predominantely Negro student bodies, a total of 144 teachers were placed. 79, or about 50% of these 144 teachers were Negro teachers.

In the 3 new schools with almost completely white student bodies, 104 teachers were assigned. Only 5 of the 104 teachers were Negro teachers. . .

15. On September 18, 1964, Judge Kaess entered "Interim Findings" in *Sherrill School Parents Committee, et al., v. The Board of Education of the School District of the City of Detroit*, Civ. No. 22092 (E.D.Mich.), recommending, *inter alia* that

The Board should commit itself to the immediate and substantial reduction of the number of schools in which there are no Negro teachers and other professional personnel.

> Substantial intergration of faculty and professional personnel should be achieved in all schools by the beginning of February, 1965 term. [P.X. 6].

16. In the 1968 the Board-appointed High School Study Commission examined, among other things, the racial composition of the faculty at two black (Central and Northwestern) and two white (Cody and Redford) high schools In *The Report of the High School Study Commission* (P.X. 107), the Subcommittee on Personnel, chaired by Deputy Superintendent Authur Johnson, found, with regard to these four high schools, that

> The percentage of Negro teachers, while being very low in the "fringe" schools, approaches 50 per cent in the two "inner" schools. The percentage of Negro teachers corresponds to the Negro population of the student body.

[P.X. 107 at 294].

Commission also found that "more experienced and older teachers are found in the fringe schools then in the inner schools" and that "[t]he inner schools tend to have a larger percentage of relatively inexperienced, young teachers." [P.X. 107 at 298].

17. Yet, this discriminatory pattern of faculty assignment persists at the present time. During the 1970-71 school year disproportionate numbers of black teachers were assigned to predominantly black schools and disproportionate numbers of white teachers were assigned to predominantly white schools; the prevailing pattern of assignment is that the percentage black of school faculties substantially correlates with the percentage black of student bodies. [P.X. 154C; Joint X. FFFF[2]; 15 Tr. 1611-21 22 Tr. 2506-18 (Foster); 38 Tr. 4340 (Johnson); *see* Finding 7, *supra;* P.X. 161 A-C, 162A-C, 165A-C, 166 (hourglass); 16 Tr. 1805-10]. As Deputy Superintendent Johnson testified, this persisting racial

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[2] Joint Exhibit FFFF was prepared and marked for identification by defendant Board, but made a joint exhibit when plaintiffs noted it and offered it. [40 Tr. 4613]. The exhibit shows a high correlation between percentage black of faculties and percentage black of pupils in each school.

pattern of faculty assignments "is the result of discrimination." (38 Tr. 4340].

18. Additionally, ESRPs continue to be assigned more heavily to black schools than to white schools and teachers in the lower salary classes are disproportionately placed in black schools, while white schools are assigned a disproportionate number of teachers in the higher salary classes. [P.X. 161A-C. 162A-C; 16 Tr. 1779-91].

19. Thus, the range of faculty distribution factors, including race, qualifications and experience, continues to reflect a discriminatory pattern.

B. Pupils

20. In 1962 the EEO Committee found (P.X. 3 at 61):

> Numerous public schools in Detroit are presently segregated by race. The allegation that purposeful administrative devices have at times been used to perpetuate segregation in some schools is clearly substantiated. It is necessary that the Board and its administration intensify their recent efforts to desegregate the public schools.

This finding is substantially corroborated by the evidence and defendants have failed to present any compelling justification for the policies and practices set forth below which had natural, probable and actual segregatory effects.

21. An assistant superintendent, Charles WElls, testified from the minutes of the EEO committee (P.X. 105 at p. 478) with respect to a letter presented to the Committee by the Citizens' Association for Better Schools (of which Mr. Wells was a member) at an EEO meeting in 1960 attended by Mr. Wells. After outlining the hopes and dreams of equal educational opportunities of Detroit's black citizens, particularly the hopes inspired by the favorable millage vote in 1959, the Association stated:

> Their [black people] first disillusionment occurred only a few

> months, but yet a few weeks after the passage of the millage – they were rewarded with the creation of the present Center District. In effect this District, with a few minor exceptions, created a segregated school system. It accomplished with a few marks of the crayon on the map, the return of the Negro child from the few instances of an integrated school exposure, to the traditional predominantly uniracial school system to which he had formerly been accustomed in the City of Detroit.... (Protestations) resulted in only rationalizations concerning segregated housing patterns, and denials of any attempts to segregate. When it was pointed out that regardless of motivation, that segregation was the result of their boundary changes, little compromise was effected, except in one or two instances, where opposition leadership was most vocal and aggressive.

[20 Tr. 2245-46]. These charges, joined in by Mr. Wells, were supported with statistical data showing the disproportionate size, inferior facilities and unequal resources relegated to the Center District. *[See generally* 20 Tr. 2243-52]. The Center District exemplified " a policy of containment of minority groups within specified boundaries." [20 Tr. 2247-48]. Its boundary line was described as "look[ing] like the coastline of the Eastern United States where the Negro population is on one side and the white population on the other." [20 Tr. 2255]. This testimony is supported by the evidence in the record and was in no way questioned by the defendants.

22. Deputy Superintendant Johnson acknowledged that there had been discriminatory practices and that "we still live with the results of discriminatory practices." [38 Tr. 4347].

23. During the decade beginning in 1950 the Board created and maintained optional attendance zones in neighborhoods undergoing racial transition and between high school attendance areas of opposite predominant racial compositions. [32 Tr. 3420-21, 3423-28(Henrickson); 13 Tr. 1396-98, 1406-78(Foster); 1 Tr. 28-32 (Former Board President Stephens]. In 1959 there were 8 basic optional attendance areas [P.X. 109A (1959-60

overlay)] affecting 21 schools. [3] [P.X. 155A at p. 44; 15 Tr. 1667, 1677(Foster)]. The natural, probable and actual effect of these optional zones was to allow white youngsters to escape indentifiably "black" schools. [13 Tr. 1478-84, 15 Tr. 1677 (Foster); 32 Tr. 3421, 3423-28 (Henrickson); P.X. 132; P.X. 109A-L, 78A-L, 136B and 136C.].

[There had also been an optional zone eliminated between 1956 and 1959, 32 Tr. 3385 created in "an attempt acted out . . . to separate Jews and Gentiles within the system" (26 Tr. 2822), the effect of which was that Jewish youngsters went to Mumford High School and Gentile youngsters went to Cooley (32 Tr. 3384). *See also* Drachler Deposition de bene esse (6/28/71) at pp. 36-37]. Although many of these optional areas had served their purpose by 1960 [4] due to the fact that most of the areas had become predominantly black [P.X. 136B(1960 census map)], one optional area (Southwestern-Western affecting Wilson Junior High graduates) continued until the present school year (and will continue to effect 11th and 12th grade white youngsters who elected to escape from predominantly black Southwestern to pre-

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[3]
Optional attendance areas provided pupils living within certain elementary areas a choice of attendance at one of two high schools. [32 Tr. 3420]. In addition there was at least one optional area either created or existing in 1960 between two junior high schools of opposite predominant racial components. [13 Tr. 1474-78; 11 Tr. 1234]. All of the high school optional areas, except 2, were in neighborhoods undergoing racial transition (from white to black) during the 1950's. The two exceptions were: (1) the option between Southwestern (61.6% black in 1960) and Western (15.3% black); (2) the option between Denby (0% black) and Southeastern (30.9% black). [P.X. 128A]. With the exception of the Denby-Southeastern option (just noted) all of the options were between high schools of opposite predominant racial compositions. The Southwestern-Western and Denby-Southeastern optional areas are all white on the 1950, 1960 and 1970 census maps. [P.X. 136A-C, 109A]. Both Southwestern and Southeastern, however, had substantial white pupil populations, and the option allowed whites to escape integration. [13 Tr. 1454-63, 1463-74].

[4]
Mr. Henrickson admitted, however, that even in 1959 some of the optinal areas "can be said to have frustrated integration and continued over the decade." [32 Tr. 3421].

dominantly white Western high school).[5] [32 Tr. 3425-27; P.X. 132, 138]. Mr. Henrickson, the Board's general fact witness who was employed in 1959 to, *inter alia*, eliminate optional areas, noted in 1967 that: "In operation Western appears to be still the school to which white students escape from predominantly Negro surrounding schools." (32 Tr. 3390; P.X. 138 at p. 12). The effect of eliminating this optional area (which affected only 10th graders for the 1970-71 school year) was to decrease Southwestern from 86.7% black in 1969 to 74.3% black in 1970. [6] (P.X. 128B]. [7]

24. The Board, in operation of its transportation to relieve overcrowding policy, has admittedly bused black pupils past or away from closer white schools with available space to black schools. [32 Tr. 3405-06, 3413-15, 3856-63, 3872-78; 14 Tr. 1489-1507; 15 Tr. 1621-42; 20 Tr. 2253] This practice has continued in several instances in recent years despite the Board's

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[5]
The Board had eliminated the other optional areas by 1965 (P.X. 109G). With regard to two such areas (Sherrill and Winterhalter-McKerrow) the effect by 1960 was that black students were electing to attend white high schools. In both instances the Board initially proposed to eliminate the optional area by including it in the black high school zone. Both proposals resulted in community opposition and one resulted in the Sherrill School lawsuit. [20 Tr. 2256-57 (Wells)].

[6[
The effect, in numbers, was that some 300 white pupils who had been escaping Southwestern throughout the decade were now required to attend a predominantly black high school. The elimination of this optional area was part of the Board's April plan: "The changes [under the April 7 plan] affect 18 junior high school feeder patterns out of 55 and will influence 12 senior high schools. The changes on the sheet indicate all graduates from Wilson will be going to Southwestern. . . ." [D.X. F, Board Minutes of April 7, 1970 at p. 504 (Drachler s presentation of the April 7 plan)].

[7]
The Board failed to present any valid, not to mention compelling, justification for its optional attendance policy and practice. Dr. Foster found no valid administrative reasons for creation or maintenance of any of the optional areas. [13 Tr. 1406-85]. The Board spent much time talking about the relative capacities of the various high schools involved in options. Even if there were capacity problems, this is an insufficient administrative justification, for it is clear that capacity problems are more easily and predictably eliminated by establishment of firm attendance boundaries, rather than the use of the more unpredictable technique of creating options.

avowed policy, adopted in 1967, to utilize transportation to increase integration. [10 Tr. 1133-48, 1150-61; 11 Tr. 1187-90, 1198-1202; 32 Tr. 3402; 15 Tr. 1629, 1633-41; Drachler deposition de bene esse at 50-51]. Even when the Board, prior to 1962, bused black pupils to white schools, it did so under its "intact busing" (busing by grade, class and teacher) practice which kept black youngsters segregated in the receiving schools. [8/28/70 Tr. 140-41; P.X. 3 at 62; 15 Tr. 1622-24]. These practices had natural, probable and actual segregatory effects and denied black children equal educational opportunities. [38 Tr.4347 (Johnson)].

25. With one exception, (necessitated by the burning of a white school), defendant Board has never bused white children to predominantly black schools. [8] [32 Tr. 3403 (Henrickson); 20 Tr. 1401 (Kennedy)]. [8a]

26. Prior to 1966 defendant Board operated under an open enrollment policy, which permitted any pupil to transfer to any school in the system with available space. [8/27/70 Tr. 50-52 (Drachler); 15 Tr. 1644-54, 22 Tr. 2519-20(Foster); 35 Tr. 3910-11 (Henrickson)]. On September 18, 1964, Judge Kaess entered "Interim Findings" in *Sherrill School Parents Committee, et al., v. The Board of Educ. of the School District of the City of Detroit*, Civ. No. 22092 (E.D.Mich.), concluding, *inter alia*, that:

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[8]

One of the most flagrant discriminatory uses of busing occurred in the transportation, from 1955-1962, of black junior high pupils from the black Jeffries public housing project to black Hutchins Junior High in another high school constellation, rather than allow them to walk across the street to the majority white Jefferson Junior High. Although Jefferson Junior High was at capacity, the Board could have assigned white students from the Tilden Elementary area in the northern-most part of the Jefferson zone (and much closer to Hutchins than Jefferies project) to Hutchins, thereby making available space for the Jeffries project youngsters at Jefferson. [P.X. 109M(small overlay); 14 Tr. 1489-1507(Foster); 32 Tr. 3407, 3872-78 (Henrickson)].

[8a]

The Board has persisted in refusing to bus white pupils to black schools despite the enormous amount of space available in inner-city schools. [35 Tr. 3901-07; P.X. 181 (small under capacity overlay)]. There are 22,961 vacant seats in schools 90% or more black. [P.X. 131].

> The present "Open School" program does not appear to be achieving substantial student integration in the Detroit School System presently or within the foreseeable future. Accordingly, the Board should commit itself to devise and propose other methods of speeding up the racial integration of students. The goal should be the achievement of substantial student integration in all High Schools and Junior High Schools by the beginning of the February, 1965 term. [P.X. 6]

The Board, with one member dissenting, expressed complete agreement with these findings on April 20, 1965. [P.X. 6A]. Yet it was not until September, 1966, that the open enrollment policy was modified to require that any transfer thereunder have a favorable effect upon integration at the receiving school. [35 Tr. 3910; P.X. 138 at 9 and 11]. Although some black pupils had elected to go to predominantly white schools, "the greater effect of the policy to that date [September, 1966] had been to draw white students away from inner city schools." [P.X. 138 at 11; 35 Tr. 3910-11]. Even under the post–1966 policy the favorable effect on integration has been negligible, with some black students continuing to elect predominantly white schools, but almost no white students opting for predominantly black schools. [32 Tr. 3411; 35 Tr 3913-14; 13 Tr. 1401]. The policy continues to focus on the receiving school and permits white students to transfer from black schools to schools which are less black. [20 Tr. 2190-92; 13 Tr. 1401]. Furthermore, pupil transfers for obviously racial reasons have been and continue to be regularly allowed. [17 Tr. 1870-72, 1881-1900 (Edmundson); P.X. 168; 32 Tr. 3388-91 (Henrickson); P.X. 138 at pp. 2 and 12].

27. The Board has created and altered attendance zones, maintained and altered grade structures and created and altered feeder school patterns in a manner which has had the natural, probable and actual effect of containing black and white pupils in racially segregated schools. [14 Tr. 1489 to 15 Tr. 1610, 1680-81(Foster)]. The Board admits at least one instance (Higginbotham) where it purposefully and intentionally built and maintained a school and its attendance zone to contain black students. [35 Tr. 3926 (Henrickson); 20 Tr. 2253-50 (Wells); 14 Tr. 1523-26 (Foster)]. Numerous similar examples have been

presented, and the Board has failed to carry its explanatory burden.[9] And even next year the Board plans on removing the last predominantly white elementary school (Ford) from the black Mackenzie high school feeder pattern, the only justification being that the regional board so willed. [32 Tr. 3417 (Henrickson)]. Even in two of the 8 changes (including elimination of 3 optional areas) during the decade which the Board points to as improving integration, subsequent changes negated or modified the meager results.[10] [35 Tr. 3863-71 (Henrickson)]. Throughout the last decade (and presently) school attendance zones of opposite racial compositions have been separated by north-south boundary lines, despite the Board's awareness (since at least 1962) that drawing boundary lines in an east-west direction would result in significant integration. [P.X. 105 at p. 450 (Minutes of EEO Committee);

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[9]

As long ago as 1967 Mr. Henrickson pointed out various obvious examples (e.g., Burton-Franklin area; Wilson-McMillan Junior High area) where boundary lines separated white and black school zones which could easily be integrated by simple boundary line revisions. [32 Tr. 3435-40; *accord* 14 Tr. 1507-11, 15 Tr. 1699-1707 (Foster)]. The Board has changed the Vandenburg-Vernor (14 Tr. 1513-1518), Jackson Junior High (14 Tr. 1534-36), Davison-White (15 Tr. 1590-95), Parkman (15 Tr. 1596-1601), Sampson (15 Tr. 1608-10) and other zone lines and feeder patterns in a manner which has created and perpetuated racial segregation in the schools. [15 Tr. 1680]. The Board has created and maintained the Higginbotham (14 Tr. 1513-18), Hally (14 Tr. 1528-29), and Northwestern-Chadsey (15 Tr. 1603-08) attendance areas in a segregatory manner. Defendants respond to these and similar examples generally by pointing out capacity problems and the desire to maintain articulated feeder patterns. These proffered justifications are unconvincing, if for no other reason because of the inconsistency of their application. For example, the Board attempts to justify the removal of the white Parkman elementary from the black Mackenzie High feeder pattern by pointing out that the receiving white high school (Cody) was much less overcrowded than Mackenzie. Yet, at the same time Cooley (predominantely black) was similarly less overcrowded than white Redford, but the board made no change in the feeder patterns. [32 Tr. 3415-19]. The articulated feeder pattern principle has not been, nor is it now, a valid justification for maintaining or failing to alleviate segregation. This principle was violated in feeder patterns such as the Custer in 1959-61 (35 Tr. 3865-67) and the Davison in 1969-present (35 Tr. 3868-71), which had the effect of creating and perpetuating segregation. And the concept was wholly disregarded in the feeder patterns proposed in the April 7 plan. [35 Tr. 3853-56 (Henrickson)].

[10]

The two negative changes were the return of black Custer to the black Central High feeder pattern (35 Tr. 3865-68, 3871-72), and the return of black Davison from the white Osborn feeder pattern to the predominantly black Pershing feeder pattern. [35 Tr. 3868-71].

Drachler deposition de bene ease at 156-77; 11/4/70 Tr. 38 (Drachler); 35 Tr. 3853-56 (Henrickson); P.X. at 7; 15 Tr. 1699-1707 (Foster)]. And although the Board was specifically aware, since at least 1967, of contiguous attendance zones which could be paired or altered to accomplish integration, it has failed to act. [32 Tr. 3435-40; P.X. 138]. The natural and actual effect of these acts and failures to act has been the creation and perpetuation of school segregation.

28. There has never been a feeder pattern or zoning change which placed a predominantly white residential area into a predomininantly black school zone or feeder pattern. [32 Tr. 3404].

29. Every school which was 90% or more black in 1960, and which is still in use today, remains 90% or more black [P.X. 150; 32 Tr. 3381-82].

30. Whereas 65.8% of Detroit's black students attended 90% or more black schools in 1960, 74.9% of the black students attended 90% or more black schools during the 1970-71 school year. [P.X. 129; 32 Tr. 3382].

C. School Construction

31. Between 1940 and 1958 the Board constructed 36 new elementary schools and 4 new high schools, and additions to 55 elementary schools, 1 junior high school and 3 high schools, for a total additional capacity sufficient to house 69,000 students. [33 Tr. 3507-08; P.X. 101 at p. 233]. The new school construction during this period was located largely in accordance with general site designations set forth in the Detroit Master Plan of 1946, which was developed by the City Plan Commission in conjunction with school authorities. [33 Tr. 3509-10, 3513-14].

32. In 1958 Board-appointed Citizens Advisory Committee on School Needs pointed up inadequacies in school plant facilities. [P.X. 101] . In 1959 the Board designated a $90 million dollar building program; $30 million came out of the millage package and the remaining $60 million from the first bond issue the Board had ever placed before the public. [Drachler deposition de bene

essee (June 28, 1971) at p. 25]. The 1959 building program was specified in a "priority list" of projects; this list was transmitted by the school authorities to the City Plan Commission which resulted in joint conferences between these two agencies and other city agencies, such as the Department of Parks and Recreation, for the purpose of determining site locations. [33 Tr. 3515 (Henrickson)] Many of the proposed attendance areas were designated in 1959 and specific site locations were thus determined within the confines of the established attendance areas; by 1962 all attendance areas and site expansions were designated for the school construction proposals on the 1959 priority list and published in *The Price of Excellence* (P.X. 72A). [35 Tr. 3891-92 (Henrickson)] Many of these attendance areas were drawn in such a manner that the Board knew or should have known that the schools, when constructed, would open as segregated schools. [15 Tr. 1682-98]. For example:

(a) The 1959 building program included a replacement for Eastern High School, which was constructed prior to the turn of the century. *The Price of Excellence* (P.X. 72A-map folowing p. 105) reveals that the attendance area would remain the same (except that portion north of Mack to be included in Kettering) for the new high school which was designated to be built some 1-2 miles southwest of the old school. [*See also* D.X. Y]. The 1960 census map (P.X. 136B) reflects that the proposed attendance area encompassed a residential section of the City which was overwhelmingly black, although there were substantial areas of white population immediately to the east and west of the proposed attendance areas. The 1960-61 racial count (P.X. 100A) reflects that old Eastern High enrolled 2290 black and only 151 white students that school year. The new Eastern was constructed around the middle of the decade and it was renamed King High School in 1968. Since the 1960-61 school year the school (old and new) has never enrolled over 50 white students (P.X. 100A-J), and this past 1970-71 school year the school enrolled only 3 white pupils out of a total enrollment of 1,878. [P.X. 100J]. The inescapable conclusion is that the Board knew, or failed to know only through wilful ignorance,

that they were building a segregated black high school.[11] [See generally 35 Tr. 3891-95].

(b) Kettering was another high school proposed in the 1959 building program. *The Price of Excellence* (P.X. 72A-map following p. 134) and Defendants' Exhibit Y show that the designated attendance area included the northern half of the Northeastern High zone and the northern portion of the Eastern High zone. The 1960 census map (P.X. 136B) reveals that the portion of Northeastern to be included in the Kettering zone was about evenly devided between black and white residences, and that the portion of Eastern to be included in the Kettering zone was overwhelmingly black in population. The proposed zone did not encompass, as it easily could have, the Southern portion of the white Osborn High School area. [*See* P.X. 136B (census map) and 109A (overlay)]. The 1960-61 racial count (P.X. 100A) reflects that Northeastern enrolled 437 white and 1648 black students that school year, while Eastern had only a handfull of white students, as previously noted. Even if all of the Northeastern white students lived in that portion of the zone to be included in the Kettering zone, it is clear that there was little likelihood that Kettering would have a substantial number of white students when it opened. Although the 1960 and 1970 census maps (P.X. 136B and 136C) show that about 1/3 of the proposed Kettering area encompasses white population areas, the Board knew that a large portion of the pupil population in this area attended then and now parochial schools. [35 Tr. 3900-01]. Furthermore, the Kettering site, designated in 1960 (35 Tr. 3895) was located in the black population portion of the zone to the south of the white residential areas, rather than the center of the zone. [P.X. 72A(map following

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[11] The Board's only response to this compelling set of circumstances is that there were charges from the black community in 1960 that the Board was building a new high school for the whites in Lafayette Park and Elmwood (the only white residential areas in the Eastern zone). These charges, however, stemmed from the previous experience of the black community with the segregation of Miller High School (35 Tr. 3882-87, 3893), and do not negate the obvious and predictable results of the Board's actions.

p. 134) and P.X. 136B (1960 census map)]. Not surprisingly, Kettering opened in 1965 with an enrollment of 808 black and only 295 white students. [P.X. 100E]. In 1970-71 Kettering enrolled 3,372 black and only 88 white students. [P.X. 100J]. The Board knew or should have known that the natural, probable and actual effect of its actions would be the creation of a segregated black high school. [*See generally* 35 Tr. 3895-3901]

(c) Finney High School was also constructed pursuant to the 1959 building program. Its boundary was designated to encompass an all white population area which was the northern half of the Southeastern area [D.X. Y(overlay) P.X. 109A (overlay)]. The attendance zone, as designated, excluded the black residential areas of the Southeastern zone. [P.X. 136B]. Finney High opened in 1962 with an enrollment of 1048 white and only 4 black pupils, while Southeastern had an enrollment that school year of 1436 black and 1220 white students. [P.X. 100B]. Although the original site selection was the Clark Elementary site, the location was subsequently changed to place the high school at the existing Finney Junior High site, even farther from the black population areas in the Southeastern zone. [35 Tr. 3881-82; P.X. 72A (map following p. 112); P.X. 136 B census map); P.X. 109A and D.X. Y]. Although a boundary change in 1967 added black students to Finney High, the school remains disproportionately white with an enrollment of 1,669 white students and only 973 black students in a system which is 63.8% black. [P.X. 100J, 152A].

. (d) Comparison of the census maps and Defendants' Exhibit AA (junior high school construction and attendance area overlay) reveals a similar systematic segregatory pattern of construction at the junior high level under the 1959 building program. 17 junior highs were constructed under the 1959 program; the following table, taken from Defendants' Exhibit NN, demonstrates the Board's knowledge of the natural, probable and actual segregatory effects of this construction:

Junior High School (1959 Bldg. program)	Date Opened	PERCENT BLACK When Authorized [12]	When Opened	1970-71
1. Brooks	1962	0.0	0.0	1.5
2. Butzel	1964	88.0	91.8	93.1
3. Condon	1963	90.0	92.7	91.8
4. Earhart	1965	10.0	13.6	8.6
5. Farwell	1964	30.0	21.8	67.8
6. Joy	1964	75.0	92.1	98.8
7. Knudsen	1963	98.0	98.7	98.9
8. Lessenger	1963	0.0	0.0	8.3
9. McMillan	1962	50.0	53.2	48.1
10. Murphey	1963	0.0	0.7	9.8
11. Pelham	1963	50.0	69.1	99.5
12. Ruddiman	1962	.5	2.1	19.4
13. Spain	1962	100.0	100.0	100.0
14. Taft	1962	0.0	0.0	0.7
15. Webber	1963	99.0	99.4	99.7
16. Wilson	1963	2.0	1.7	2.1
17. Winship	1963	0.0	0.0	70.3

Of these 17 junior high schools, only 3 (Farwell, McMillan and Pelham) had designated attendance areas (*see* D.X. AA) which were estimated by the Board to be substantially integrated when authorized in 1959, and 2 of these (Farwell and McMillan) have remained integrated. Of the remaining 14 junior high schools authorized in 1959, 8 had designated attendance areas estimated by the Board to be white when authorized and 6 had designated attendance areas estimated by the Board to be black. Each of these 14 schools, as anticipated, opened as black or white junior highs, and each has retained its racial identity to this date. The Board's defense that they were surprised and overtaken by population shifts in the interim period between authorization date and completion date is not borne out by the facts, nor is it supported by the Board's own exhibits, which not only demonstrate a segregatory construction program but also demonstrate scienter on

[12]
The column showing % black when authorized was estimated by Mr. Henrickson from existing schools in the area at the time authorized. [30 Tr. 3212].

the part of the Board. The evidence reflects long delays between the initial designation of projects and actual steps toward construction. In such instances the board was free to change its plans for many reasons including the demonstrable reason that if built in particular locations it would be a segregated school.

(e) Defendants' Exhibit Z and the exhibits used in the foregoing examples, together with the same methods of comparison therein utilized, reveal the same results with regard to elementary school construction under the 1959 Building program: The Board, with knowledge of the natural, probable and actual effects of its actions, constructed and maintained segregated black and white elementary schools.

33. In addition to the 84 projects undertaken pursuant to the 1959 Construction Program (*see* P.X. 75), the Board has, during the last decade, undertaken additional construction with its normal millage authority (recently increased to 5% to equalize Detroit's capital outlay authority with that of the rest of the state). [*See* P.X. 77]. Defendants' Exhibit NN reflects that the Board has completed construction of and additions to 91 schools since 1959. According to defendants' own exhibit (NN), 48 of these schools were to serve areas which were over 80% black in pupil population when the construction was authorized, all of which opened over 80% black and remain so; 14 schools were in areas over 80% white (by the Board's own estimates) when authorized, opened over 80% white and have remained so. Plaintiffs Exhibit 79 shows the construction of 63 *new* schools since 1960. 44 of these schools opened over 80% black in student enrollment, and 9 opened less than 20% black. This new school construction is depicted on overlays (P.X. 153, 153A and 153B); when the overlays are compared to the 1960 and 1970 census maps (P.X. 136B and 136C) and the percentage black when each school opened (P.X. 79), it appears beyond peradventure that the Board, with few exceptions, has knowlingly embarked upon and continued a course of new school construction which had the natural, probable and actual effect of creating, perpetuating and maintaining racially segregated schools in Detroit. [15 Tr. 1682-98(Foster); 33 Tr. 3519-21].

34. In 1966 the defendant State Board of Education and the Michigan Civil Rights Commission issued a Joint Policy Statement on Equality of Educational Opportunity (P.X. 174), requiring that

> Local school boards must consider the factor of racial balance along with other educational considerations in making decisions about selection of new school sites, expansion of present facilities. . . .Each of these situations presents an opportunity for integration.

Defendant State Board's "School Plant Planning Handbook" (P.X. 70 at p. 15) requires that

> Care in site location must be taken if a serious transportation problem exists or if housing patterns in an area would result in a school largely segregated on racial, ethnic, or socio-economic lines.

Yet, defendant Board has paid little, if any, heed to the obvious truth of these statements and guidelines, as the foregoing findings regarding school construction and site location clearly demonstrate. The State defendants have similarly failed to take any action to effectuate these policies. [33 Tr. 3522]. Defendants' exhibit NN reflects construction (new or additional) at 14 schools which opened for use in 1970-71; of these 14 schools, 11 opened over 90% black and 1 opened less than 10% black School construction costing $9,222,000 is opening at Northwestern High School which is 99.9% black, and new construction opens at Brooks Junior High, which is 1.5% black, at a cost of $2,500,000.[13] [P.X. 151].

35. Since 1959 the Board, with the obvious knowledge that small schools "defeat the intended objective of large service areas with heterogeneous social and racial composition" [P.X. 138 at p. 5; 35 Tr. 3909-10], has constructed at least 13 small primary

[13]

The construction at Brooks Junior High plays a dual segregatory role: not only is the construction segregated, it will result in a feeder pattern change which will remove the last majority white school from the already almost all-black Mackenzie High School attendance area. [32 Tr. 3417; *see* Finding number 27, *supra*].

schools with capacities of from 300 to 400 pupils. [35 Tr. 3907-08]. This practice negates opportunities to integrate "contains" the black population and perpetuates and compounds school segregation.

36. Furthermore, the Board, through school construction, has advantaged itself and built upon the racial segregation in public housing projects (which segregation resulted from the discriminatory policies and practices of federal and state housing agencies, *see* Findings *43 – 44, infra), by constructing new schools* and additions within or near such segregated projects. [P.X. 147, 148, 149; 23 Tr. 2571-76] The Board knew or must have known that such construction created or perpetuated school segregation. (*See, e.g.*, school official's reference to using "colored church" to relieve school overcrowding caused by black housing projects, P.X. 147 at p. 17; 23 Tr. 2574). [*See* Finding 46 *infra*]

D. Magnet Plan

37. The integration results predicted for the magnet high school plan have failed to materialize; the plan has resulted in but a few black students electing to attend predominantly white high schools and almost no white students choosing predominantly black high schools. [31 Tr. 3323-46 (Della Dora); 35 Tr. 3912-14 (Henrickson)]. The magnet plan retains too many of the defects inherent in "open enrollment" and "free choice" techniques (already proven ineffective in Detroit, *see* Finding 26, *supra*) to have any realistic prospects of achieving substantial desegregation of Detroit's high schools. [35 Tr. 3910-14 (Henrickson); 15 Tr. 1644-54 (Foster)].

E. Alternatives Available

38. The District long has been aware of the racial segregation of pupils and faculty in the Detroit Public School System. Numerous complaints have been made to the Detroit Board of Education and its staff to remedy the situation. Among the examples are the reports of Citizens Association for Better Schools in 1960 [20 Tr. 2245-2246; P.X. 105 p. 478], the 1962 report of the Committee on Equal Educational Opportunity [P.X. 3], the *Sherrill* School

Case [P.X. 6 and 6A], the studies by the Commission on Community Relations in 1963 on continuing discriminatory patterns and practices of the District [P.X. 177-178]; the joint statement of the State Board of Education and Michigan Civil Rights Commission in 1966 [P.X. 174], and the report of the High School Study Commission in 1968 [P.X. 107]. Board minutes are replete with repeated requests by many individuals and groups, including Plaintiff Detroit Branch of the N.A.A.C.P., for effective action to eliminate existing segregation. [D.X. RR].

39. Several such complaints suggested reasonable and feasible means of pupil and faculty assignment which would reduce the substantial racial imbalance; other proposals to remedy the school segregation were also made. Among the other examples are Defendant Drachler's acknowledgement in 1961 to the EEO committee that drawing attendance zones East-West instead of North-South would effect substantial integration [Drachler Statements, Deposition 6/28/71 pp. 156-157; P.X. 105, p. 405]; the various suggestions by District planner Henrickson, in 1967 [P.X. 138], and the various desegregation proposals of a number of District staff groups in 1970 [P.X. 11-13]. Defendants, including the State Board of Education, admitted the educational benefit of integration for both black and white pupils and the denial of equal educational opportunity inherent in existing school segregation [P X. 174(State Board); 19 Tr. 2049-2051(State Board); P.X. 1(Drachler Statement)]. As admitted by defendant Board member Stewart, the District has "a moral as well as a legal responsibility to undo the segregation it helped to create and maintain." 21 Tr. 2350-2353 [See also admissions of Deputy Superintendent Johnson, 41 Tr. 4334-4348].

40. The District had the power to and regularly did alter attendance zones, build new schools and additions, and alter student and faculty assignments. Yet, with some exceptions, most notably the April 7 plan of partial high school desegregation, the District has failed to act effectively to end the prevailing pattern of school segregation because of "imagined or real community pressures based on race alone." P.X. 3 p. 74 (1962 EEO Report) [See also P.X. 173 p. 11 (Former Board President Grace Deposition, 7/24/64)]. Those fears of the white community's active

hostility to effective action to end the prevailing pattern of school segregation were born out by the quick response and recission of the April 7 plan by the State and recall of Board members who favored that modest start. [41 Tr. 4675 (Drachler)].

F. School and Residential Segregation

41. The City of Detroit is a community generally divided by racial lines. *Bradley* v. *Milliken*, C.A. No. 35257 (E.D.Mich. Dec. 3, 1970) (Slip. Op. at 3). Residential segregation within the City of Detroit and throughout the metropolitan area is substantial, pervasive and long-standing. The credible evidence in this cause – exhibits and testimony of expert and fact witnesses – shows that black citizens have been contained in separate and distinct areas within the City and largely excluded from other areas within the City and throughout the suburbs; that pattern and practice persist. [P.X. 184, 2, 16A-D, 136A-C (census maps); 48 (map of racial covenants); 1 Tr. 144 et seq. (Marks); 3 Tr. 342 et seq. (Taeuber); 2 Tr. 200, et seq., 3 Tr. 398, et seq., 5 Tr. 522 et seq. (Bush); 6 TR. 686 et seq. (Price); 7 Tr. 720 et seq. (Bauder); 7 Tr. 766 et seq. (Tucker); 5 Tr. 591 et seq., 5 Tr. 608 et seq., 5 Tr. 617 et seq., 6 Tr. 630 et seq., 6 Tr. 636 et seq., 6 Tr. 665 et seq. (Black Real Estate Brokers)] That evidence stands uncontradicted by the State or any other defendant.

42. Chance, the racially unrestricted choices of black persons, and economic factors are not now and have never been the major factors in this pattern of residential segregation; nor is it primarily an ethnic phenomenon. [1 Tr. 146-148, 150-153, 176-177 (Marks); 3 Tr. 349-350, 357-363, 371-377, 386-389, (Taeuber); 7 Tr. 775-779, 787 (Tucker); P.X. 183B, pp. 1-2]. Rather, the pervasive residential segregation throughout the metropolitan area is primarily the result of past and present patterns, practice, custom and usage of racial discrimination, both public and private, which now restricts and always has restricted the housing opportunities of black people. [1 Tr. 151-154, 167-168(Marks); 3 Tr. 358, 363-364, 373, 386-387 (Taeuber); 7 Tr. 766-767 (Tucker); 7 Tr. 727-28 (Bauder), P.X. 122]. As evidenced by the uncontroverted (1) testimony of officials or former officials from the Detroit Commission on Community Relations (Marks and Bush),

Detroit Housing Commission (Price), the Michigan Civil Rights Commission (Bauder), United States Commission on Civil Rights (Sloane), and the Department of Housing and Urban Development (Tucker) (all of which are responsible for monitoring and in some instances combatting housing discrimination) (2) probative findings of these agencies and the former commissioner of the Michigan Corporation and Securities Commission, (3) the testimony of local black brokers and (4) a variety of documentary evidence, the collective experience of black home seekers throughout the metropolitan area always has been and is still largely that of racial discrimination, restriction, exclusion, and sometimes insult or worse.[14] The testimony of these witnesses is creditble, informed and stands unrebutted and uncontradicted by the State or any other defendant. This proof was properly conceded by Counsel for the District to be a "tale of horror . . . degradation and dehumanization." 5 Tr. 607 [See also 6 Tr. 672, 680-681 (District); 4 Tr. 505 (Intervening Defendant Detroit Federation of Teachers)].

43. Governmental action and inaction at all levels–federal, state and local – is fully implicated in the subsidization, development and maintenance of racial restrictions on housing opportunities and is substantially responsible for the present residential restrictions and pattern of residential segregation throughout the metropolitan area. [Tr. 153-156, 177-178 (Marks); 2 Tr. 200, et. seq. (Bush); 6 Tr. 694-698 (Price); 7 Tr. 766-796 (Tucker); 7 Tr. 722-750 (Bauder); 4 Tr. 445-473, 496-498 (Sloane); and P.X. 25 (Report of the Commission on Community Relation); P.X. 122 (Statement of the Michigan Civil Rights Commission); P.X. 37 (Report U.S. Commission on Civil Rights); P.X. 38 (Statement of the Secretary of HUD)]. As testified by Martin Sloane, Assistant Staff Director of the United States Commission on Civil Rights, one of the most formidable factors has

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[14]

In the words of one witness, this pattern of containment "is just as effective a barrier as if a wall were built in the community." [1 Tr. 163 (Marks)]. This witness then noted that on the edge of an historic black pocket in the 8 Mile-Wyoming area, a builder, who had title to property adjacent where these Negoes were living, "actually put up a cement wall, brick, mortar and brick wall, which for years was a symbol in [Detroit] of the way in which the Negro was an undesired neighbor." (1 Tr. 163 (Marks); Tr. (Hendrickson)]

been the history of the Federal government's aggresive promotion of discrimination and subsidization of new housing, especially in the suburbs, on a racially exclusive basis. The effects of these discriminatory policies, and the scope of the activity of F.H.A. and later V.A. [4 Tr. 445-456, 490-494, 496-498 (Sloane)], on the present location and racial occupancy of housing throughout the metropolitan area, particularly in subdivision development, affixed a pattern of racial separation which was closely conjoined with new school construction within the City and the white bedroom communities of the suburbs.[15] Present governmental inaction has failed to reverse this pattern of housing discrimination and segregation which it did so much to create and now perpetuates by failing to exercise its power. [P.X. 184 (census map); P.X. 37, 57(Statements of U.S.Commission on Civil Rights); P.X. 38 (Statement of Secretary of HUD); P.X. 183A pp. 5-6 (Plaintiffs' Answers to Requests for Admissions); 4 Tr. 453-455, 496-498 (Sloane)].

44. The City of Detroit, with the assistance of federal

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[15]

In building racially exclusive communities for the outmigration of whites, "white" schools were a necessary precondition to "stable" and "desireable", i.e. white, neighborhoods in the formerly stated view of the F.H.A.:

"Of prime consideration to the Valuator is the presence or lack of homogenity regarding types of dwellings and classes of people living in the neighborhood....Distances to the schools should be related to the public or private means of transportation available from the location to the school. The social class of the parents of children at the school will in many instances have a vital bearing.... Thus....if the children of people living in such an area are compelled to attend school where the majority or a good number of the pupils represent a far lower level of society or an incompatible racial element, the neighborhood under consideration will prove far less stable and desireable than if the condition did not exist. In such an instance it might well be that for payment of a fee, children of this area could attend another school with pupils of the same social class." [P.X. 56B, 1936 F.H.A. Manual §§252, 265, 266].

"PROTECTION FROM ADVERSE INFLUENCES... Important among adverse influences [is] infiltration of inharmonious racial or nationality groups. [P.X. 56, 1935 F.H.A. Manual §§310].

"Protection from Adverse Influences....Recorded restrictive covenants should strengthen and supplement zoning ordinances and to be really effective should include... [p]rohibition of the occupancy of properties except by the race for which they are intended." [P.X. 56 A, 1938 F.H.A. Manual, § 980 (3) (g)

agencies, built and maintains public housing on a racially segregated basis [1 Tr. 156 (Marks) 7 Tr. 781 (Tucker); 4 Tr. 457-459, 463-464 (Sloane); P.X. 18A (Public Housing Occupancy Statistics by Race, 1951-1971; 6 Tr. 697 (Price)]. Until declared unconstitutional by this federal district court in 1954, Detroit maintained segregation as an official policy: tennants were assigned on a racial basis and projects located so that existing racial characteristics of any area would be maintained. [1 Tr. 156 (Marks); 2 Tr. 221, 226, 247, 254-256, 263-265(Bush); (Detroit Housing Commission Exhibits: P.X. 17; 18B p. 1; 19 Annual Report 1935, p. 10; Annual Report 1943 p. 9; Annual Report 1945, p. 29) 6 Tr. 697 (including urban renewal) (Price)]. Racially discriminatory tennant assignment practices continued through 1968 [6 Tr. 697-698 (Price); 7 Tr. 781-786 (Tucker); 2 Tr. 284, 291-292, 5 Tr. 589 (Bush); P.X. 18A p. 32; P.X. 21 –. 25-35 (1959 Study of Tennant assignment)]. The policy of modified free choice then adopted has not been effective in desegregating projects originally designated for black occupancy. [P.X. 18B, pp. 15-18 (Tennant Assignment Policy 1/2/69); 7 Tr. 781-786 (Tucker)]. They remain virtually all black [P.X. 18A p. 3; 2 Tr. 297]. The discriminatory practice of locating projects persists. There has been a continuing pattern of rejection of proposed public housing projects which are feared to be open to tennants of all races and located in white areas of the city. [1 Tr. 177-178 (Marks); 1 Tr. 266-274, 2 Tr. 293-307, (Bush); 6 Tr. 706-708 (Price)]. As a result since 1954, there has been very little construction of additional public housing [P.X. 18A; 6 Tr. 706 (Price)], all of which has been located in black or changing areas. [1 Tr. 178 (Marks); P.X. 23 (Map of public housing constructed and rejected); 7 Tr. 731-732 (Bauder); P.X. 123 (Statement of the Michigan Civil Rights Commission to the Detroit Common Council, 3/30/70)]. This continuing pattern of government action and refusal to act contributes substantially to the pervasive residential segregation. [1 Tr. 155-156, 177-178 (Marks); 4 Tr. 457 (Sloane); 7 Tr. 743-744 (Bauder); 7 Tr. 779-780 (Tucker)] .

For a long period the affirmative policy of the major associations of white real estate agents to exclude blacks from white neighborhoods [P.X. 60 p. 5, 6 Tr. 643 (Real Estate Codes of Ethics)] was explicitly sanctioned by the State agency responsible

for licensing and regulating real estate agents[16] [P.X. 59 pp. 22, 25; 5 Tr. 525] and openly promoted and subsidized by the F.H.A. and other federal agencies [P.X. 56, 56A, 56B (F.H.A. manuals); 4 Tr. 445-452(Sloane);6 Tr. 705 (Price); 7 Tr. 767, 770 (Tucker)]. By policy and practice various banks and lending agencies, chartered and regulated by state or federal agencies, financed residential choices to preserve and build racially homogeneous neighborhoods [6 Tr. 702-705 (Price); 4 Tr. 464-467 (Sloane)]. Racially restrictive covenants, long enforceable in State court, effectively excluded blacks from all but a few areas in the City and suburbs identified for open and black occupancy; these covenants helped establish a pattern and practice of racial containment and exclusion which persist.[17] [P.X. 48, Tr. 235-238 (map of restrictive covenants); P.X. 48A and Tr. 186-196 (Affidavit and testimony of Chief Title Officer of Burton Abstract and Title Company, *Parmalee* v. *Morris*, 218 Mich. 625 (1925), *Northwest Civic Association* v. *Sheldon*, *317 Mich. 416 (1947*, *Sipes* v. *McGee*, 316 Mich. 614 (1947, rev'd 334 U.S. 1 (1948); 1 Tr. 153-154 (marks); P.X. 2, 16A-D, 184 (census maps); 7 Tr. 778-778-779,796(Tucker)]. The pattern of racially discriminatory marketing practices in the organized real estate industry, although possibly less rigid and openly stated then in the past, persist and are still effective. [1 Tr. 154 (Marks); 3 Tr. 363 (Taeuber);5-6 Tr. *passim* (Real Estate Brokers)]. By credible and uncontroverted evidence in this record, both past and present mechanisms of housing dis-

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[16]
After hearings and investigations in 1961 Commissioner Gubow attempted to halt the pervasive discriminatory practices of its licensed real estate brokers which Commission policy had previously helped develop and maintain. That effort was frustrated by act of a superior state agency. (P.X. 183A-G).

[17]
Restrictive covenants continued to be included in the abstracts and title insurance policies of the largest title company in the Detroit metropolitan area because of its opinion that they had some continuing effect until *Jones v. Mayer*, 392 U.S. 409 (1968); upon a request by the Justice Department on November 26, 1969, made pursuant to Title VIII of the Civil Rights Act of 1968, the title company began eliminating such restrictions from all policies and commitments. (P.X. 48A; 2 Tr. 196].

crimination have been described and documented.[18] [1 Tr. 152-153 (Marks); 3 Tr. 363, 386, 391 (Taeuber); 7 Tr. 768-770 (Tucker); 5 Tr. 531-534, 536-568 (Bush); P.X. 24 (harassment); P.X. 27-29 (advertising); P.X. 25; 5-6 Tr. *passim*). The under statement of one young black broker, who works on behalf of black clients who seek better housing which happens to be located in white residential areas, describes the current situation: "I do it only on bright days when I have good shoes because there is a great deal of hostility in the white areas." Tr. 671.[19]

46. The defendants had full knowledge of this situation. From 1943 until his employment by the District in 1959, the chief school planner, Mr Hendrickson, was employed by the Detroit City Plan Commission and worked on the master plan which, with modifications, is still in effect and included generally existing and proposed school locations. [33 Tr. 3507-3513 (Hendrickson)]. The District acts jointly with city planning officials, public housing authorities, and federal agencies in the acquisition and sale of land and location and construction of schools. [P.X. 147-148; 167; 19, Detroit Housing Commission Annual Report 1942, p. 37; 33 Tr. 3514-3518 (Hendrickson)]. The State Board of Education and Michigan Civil Rights Commission directed that school authorities in their school construction and student assignment practices avoid imposing segregation

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[18]
The discriminatory mechanisms of the organized real estate market operate to restrict the choices of whites as well as blacks. Whites and blacks are sorted and separated, guided by the real estate industry on a racial basis to different residential areas in the metropolitan area. [1 Tr. 146-148, 151, 170 (Marks); 5 Tr. 548, 557-558, 582 (Bush)].

[19]
Another older black broker testified movingly about the long history of discrimination he and his clientele experienced, his own recent difficulties in purchasing a home for his family in the suburbs, and his decision to stop attempting to seek homes for black persons in white areas: "I've been licked, and I just don't like wasting my time and my effort. And, I don't like taking people, like a Doctor I took out in Livonia...able to buy and pay for a piece of property. And walk to the door and the man is in, he comes out, closes the door and said "we're

"And this kind of thing was not bad for me because I'm immune to it, but it was so embarrassing to [the Doctor]." 5 Tr. 604-605.

in the schools. [P.X. 174]. Yet, the District, with the sanction of the defendant State Board of Education and support of State bonding authority, built upon and advantaged itself of the pattern of residential segregation to create, maintain, magnify, and perpetuate pupil and faculty segregation in the public schools as set forth more fully in findings 1 to 36 *supra*. For examples, as the major area of black containment expanded West (after a decision by white realtors to open the area) in a pattern of neighborhood succession from Woodward to Livernois to Greenfield [P.X. 2, 184, 16B-D, 136A-C (census maps); 1 Tr. 147-148, 170 (Marks); 3 Tr. 364-370 (Taeuber); 5 Tr. 569 (Bush); Tr. (Hendrickson)], school boundaries were either altered, [see finding *21,27 supra*], made optional zones [see finding 23 *supra*], or maintained in a generally North-South direction [see finding 27 *supra*]. Such actions had the natural, probable and actual affect of maximizing school segregation and identifying schools as "black" or "white". [See Findings 20-30 *supra*]. For example, defendants built and maintained Higginbotham as an admittedly "black" school for residents of an historic black pocket in the 8 Mile-Wyoming area.[20] [See Finding 27 *supra*]. The Higginbotham school boundaries were built upon the actual physical barriers erected by neighboring whites intent on keeping blacks out. [See Findings 27,42 *supra*]. By various assignment, transfer and transportation practices, Higginbotham has been kept a "black" school. [See Findings 24,27 *supra*]. As examples, many schools were built for public housing projects designated "black" or "white"; sometimes

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[20]

That pocket had been built up by temporary war housing [P.X. 19, Detroit Housing Commission Annual Report 1943, p. 71], designated for black occupancy, and extended beyond the City limits into Oakland county and the old, almost all-black Carver School District. [P.X. 184 (census map); Drachler depositions, 3/31/71 p. 13, 6/28/71 p. 48]. The small Carver school district lacked high school facilities. The District accomodated these students by busing them past "white" schools to "black" schools in the inner city. [8 Tr. 885 (Green); 11 Tr. 1259-60 (1959 Boundary Guide Book); Drachler depositions, 3/31/71 p. 13, 6/28/71 p. 48]. The Carver school district finally was split and merged into the Ferndale School District and Oak Park School District. [Drachler Deposition 3/31/71 p. 13; P.X. 184 (census map); P.X. 185 (Summary of Suburban Schools)]. In these districts at the elementary level in the 1968-69 school year, the students from this still black residential pocket [P.X. 184 (census map)] were assigned to two virtually all black schools. [P.X. 185(Summary of Suburban Schools)].

these schools were located on the site of the public housing project. [P.X. 147-148; 19, Detroit Housing Commission Annual Report 1942, pp. 32, 37; and see finding 36 *supra*]. By various student and teacher assignment, transportation and transfer practices, many of these schools were opened and thereafter maintained as "black" or "white" schools. The original "black" housing projects, and their schools, remain virtually all black, the result of past and present discriminatory practices. [P.X. 149].

Indeed, identifiably "white" schools often were constructed and maintained on lands with covenant restrictions against Negro use or occupancy; and in one instance at least in 1954, such racial covenant was continued pursuant to a special agreement between the seller of the land and purchaser Detroit Board of Education. [See generally, 20 Tr. 2164-2176; P.X. 172, 172W, 172A-Z]. This record shows many other examples of defendants' pattern and practice of taking advantage of and building upon residential segregation to create, maintain, intensify, and otherwise impose segregation in the public schools. A summary of the pattern and practices, as set forth more fully in findings 31-36 *supra*, is evidenced by defendants own exhibit NN: Since 1960 most new schools were authorized, opened and remain 80% black or 80% white.[21] And these schools were built to contain pupils from residential areas with high black or white concentrations. [P.X. 153, 153A-B (location of new school construction); 136 B-C (census maps).]

As noted, with the exception of a few historic areas of black occupancy, Negroes are largely excluded from most areas and schools outside the City. For example, approximately 20,000 blacks work in Warren, but only a handful live there. [7 Tr. 751-752 (Bauder); 7 Tr. 775-780, 792-796 (Tucker); P.X. 38; P.X. 184]. When viewed in light of the other credible evidence on patterns and practices of discrimination throughout the metropolitan area, the records supports the finding that blacks are sy-

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[21] Between 1940 and 1958 most new classrooms were built in the outlying parts of the City to accomodate the growth in student population, white, in the Northwest and Northeast. [33 Tr. 3510; P.X. 101, p. 233].

stematically excluded from living in Warren, contained primarily in the areas open to black occupancy in the City.[22] The uncontradicted evidence also shows that blacks generally are not employed as faculty by the Warren public schools. [7 Tr. 752 (Bauder); P.X. 181 p. 672 (HEW school statistics)]. This example is just one of many in this record of how governmental instrumentalities within and without the City act to maintain "white" schools. [P.X. 185, 181, 182, 128B]. For example plaintiffs' exhibit 185 summarizes a number of "black" schools which are immediately contiguous to virtually all white suburban schools and districts. [See also P.X. 181 and 182]. When viewed in conjunction with a map [P.X. 184] of the metropolitan area by race, the sharp racial demarcation between the contiguous, substantially disproportionate, opposite race schools and districts is apparent.

48. By so creating and maintaining a pattern of schools identifiable as "black" or "white" schools, defendants directly accomodated and supported racial discrimination in housing. [P.X. 56, 56A-B (1938 F.H.A. Manual); 4 Tr. 449, 502 (Sloane), P.X. 183A, Plaintiff's answers to request for admissions, pp. 5-6; 8 Tr. 865-866, 919 (Green)]. Moreover, by maintaining school segregation over the history of the metropolitan area, defendants necessarily taught the experience of segregation to succeeding generations of pupils who thereafter acted out what they had learned in public and private capacities. [9 Tr. 960-967, 1025-26 (Green); 7 Tr 766-767 (Tucker); Drachler Deposition 6/28/71 p. 109]. This too had an unmeasurable but substantial effect on the racial discrimination which is primarily responsible for segregation of residences and schools. [9 Tr. 960-967, 1025-1026 (Green); 7 Tr. 774 (Tucker); Drachler Deposition 6/28/71 pp. 108-109.] Thus, defendants' actions in relation to the creation and maintenance of state-imposed also operated substantially to create and perpetuate housing discrimination and residential segregation.

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[22] The Secretary of HUDappearing before the Select Committee on Equal Educational Opportunity noted that the City of Warren "had an obvious practice of [housing] discrimination." [P.X. 38, p. 2786]. The evidence in this record supports that finding.

G. Equal Educational Opportunity

49. When viewed in conjunction with all the other evidence in this cause, plaintiffs' "hourglass" exhibit 166 [16 Tr. 1807] dramatically demonstrates what by now should be clear, that black and white children attend school largely with pupils of their own race and disproportionately with teachers of their own race. Put simply, most children in the District receive basically a racially separate educational experience. Both the white and black communities generally perceive the "white" schools as superior and "black" schools as inferior. [37 Tr. 4154 et seq. (Guthrie); 8-9 Tr. *passim* (Green)]. For example, Dr. Drachler noted that after the April 7 plan had been adopted, but before its recision, a group of black parents supporting integration "were worried that their children [would] not be able to compete educationally with the youngsters in the new school. I had to show them that their children's scores were higher than some of the children in the school that they [were] about to enter. The self-image that they had of themselves is that if a school is totally black, then its students are not doing as well. I do not blame the parents. Segregation, attitudes of whites, instructional materials all contribute to this image." [41 Tr. 4677-4678. See also 8-9 Tr. *passim* (Green)]. Both white and black children understand that they are largely contained in racially separate schools and a stigma of inferiority attaches to "black" schools. [3 Tr. 4154-4156(Guthrie); 8 Tr. 863-871, 885-886, 895, 920-921]. In fact, as measured by standard achievement test scores, predominantly "black" schools are not doing as well as "white" schools. [P.X. 134A, 134C; 8 Tr. 872 (Green)]. Although almost all schools in the city are below the nation-wide norm, predominantly black schools by the eighth grade are on the average two or more grade levels behind predominantly white schools. [P.X. 134A, 9 Tr. 1008-09 (Green)].

50. There is absolutely no indication that this disparity results from some inherent inferiority of black children as a group relative to white children. Rather, as a group and on the average black and white children arrive in school with the same potential and much the same levels of tested achievement. [8 Tr. 874-876m 933 (Green)]. (Of course different background produce a range of achievement levels in all students. [8 Tr. 879-880 (Green)] Only

thereafter, with the experience of school segregation, does this tested achievement disparity appear and grow.[23] [8 Tr. 874-876 (Green); P.X. 134A]. Defendants suggest that this disparity results from either test bias or socio-economics status. Both, however, are conceded by Dr. Guthrie, the District's expert, to be surrogates for past or present racial discrimination insofar as blacks are concerned. [37 Tr. 4148-4154, 4160, 4173, 4174 (Guthrie); See also 8 Tr. 928, 935-936 (Green)]. Beyond mere standardized test scores, the final result is systematically inferior education for black children relative to white in the District, and perpetuation by the defendants of the ills of our society on a racial basis.[24] [8 Tr. 939-940, 950-952, 9570969 (Green)]. In the testimony with respect to "social class" or SES and its role in explaining the systematic differences between students in schools 90% black and those 90% or more white both plaintiffs and defendant District conceded that whatever the differences in their views, racial discrimination, past and present resulted in disporportionate, adverse affects on disproportionage numbers of black pupils. The effect was observable in schools in general and in particular in schools of the city of Detroit. [37 Tr. 4148-4154 (Guthrie); 8 Tr. 874-76, 928-936, 951-967].

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[23]

Presumably on the average "SES" of the child (and income of the parent, see 8 Tr. 926 et seq. (Green)) remain approximately the same during his progress from K through 8. Although there was dispute between the witnesses as to the initial differences all agreed the disparity increased as the number of years in a segregated school increased. And the experts do agree that schooling does and can make a difference. See, e.g. 8 Tr. 937 (Green).

[24]

So called part-time shared-learning experiences and multiracial textbooks and curriculum simply cannot overcome the adverse racial effects of segregated education. In the words of Dr. Green, "these kinds of experiences can be wiped out by newscasts of a black robbing an elderly white person Downtown Detroit. These kinds of experiences can be readily wiped out completely ... It can be wiped out by the fear of suburban parents who come into Detroit for a movie on Friday evening. However, ongoing sustained interpersonal relationships are not wiped out by a mugging of an elderly white woman by a black man." 9 Tr. 957-958.

51. Similarly, the segregated educational experience has cumulative effects on the attitudes and behavior of the children; but the benefits of integrated and harm of segregated education are entrenched in the early years when the children are most impressionable. No witness disputed this point. [See, e.g. 9 Tr. 960 (Green); 37 Tr. 4149-4150, 4180 (Guthrie); 35 Tr. 3909 (Henrickson)].

52. The District, on its own effort, systematically discriminates against black children and "black" schools in the provision of objectively measurable educational resources. For example, although teacher pupil ratios are the same [163A-C, 164A-C, 163AA-CC, 164AA-CC], more emergency substitutes, fewer highly paid and experienced teachers, and more inexperienced and low paid teachers are assigned to "black" schools than "white." [P.X. 161A-C, 162A-C, 164A-C; D.X. NNN] [25] In the allocation of the District's own funds, [26] the average expenditure per pupil in "black" schools is between $50 and $40 less than in "white" schools [P.X. 163A-C, 164A-C, 163AA-CC, 164AA-CC]; and the average salary of teachers assigned to balck schools is between $1800 and $1400 less than the average salary of teachers assigned to white schools [P.X. 163A-C, 164A-C, 163AA-CC, 164AA-CC, D.X. NNN]. In its allocations of its resources, the finding is therefore compelled that the District is discriminating against Negro children in a pattern of "systematic differentiation paralleling racial lines." [41 Tr. 4665-4666 (Smith)].

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[25]

A variety of calculations have been made by experts for the District and the plaintiffs. Although the figures vary depending on the particular data and method of calculation used, they are in substantial agreement in both the extent and consistency of the disparity in resources allocated by the District to black children and schools compared to white.

[26]

Exclusion of federal and state compensatory funds is required in order to fairly summarize the District's own efforts and determine whether it is discriminating against black children and "black" schools [41 Tr. 4666-4667 (Smith); and see *Hobson* v. *Hanson*, order of May 25, 1971.] The compensatory funds are supposed to be added onto an already equal local resource allocation effort. [37 Tr. 4181-4182 (Guthrie)]. In this District that is not the case.

53. The High School Study Commission found in 1968, despite denial by the District, that "rigid ability grouping across classes [or tracking] is a basic part of educational planning in Detroit at the high school level" and "that grouping is quite rigid." [P.X. 107A, pp. 5,8.] The District witnesses agreed with plaintiffs that tracking within schools serves no educational purpose and often operates to segregate black children from white in separate classrooms within the same school. [37 Tr. 4151-4153 (Guthrie); Drachler Deposition 6/28/71 pp. 159-160; see also 8 Tr. 889-894, 896-897, 909 (Green)]. And the District's educational expert conceded that tracking between schools with different curricula or ability levels has the same effect, namely segregation of black and white pupils for no educational purpose. [37 Tr. 4153 (Guthrie); Drachler Depositions, 6/28/71 p. 81, 3/3/71 pp. 11-12].

54. Similar disparity in the allocation of education resources occurs between District pupils and other pupils in the metropolitan area: fewer dollars per pupil, identification as black, the stigma of inferiority attaching are the lot of plaintiff children in the District. [37 Tr. 4136-4142, 4156-4157 (Guthrie); 31 Tr. 3309-3310 (Della-Dora)]. In short, black children in the District face a double dose of discrimination resulting from both economic and racial discrimination. [41 tr. 4676 (Johnson)] Irrespective of good or bad faith, a pattern of systematically discriminatory practices perpetuating segregation and inevitably identifying schools as "black" or "white" clearly persists in the District and throughout the metropolitan area. It is that pattern which perpetuates the twin cancers of racism and segregation in our society and denies plaintiff children an equal educational opporunity.

H. State Involvement

55. The state and its agencies, in addition to their general responsibility for and supervision of public education, have acted directly to control and maintain the pattern of segregation in the Detroit schools. [See: 37 Tr. 4140,4141]. The state refused, until this session of the legislature, to provide authorization or funds for the transportation of pupils within Detroit regardless of their poverty or distance from the school to which they were assigned,

while providing in many neighboring, mostly white, suburban districts the full range of state supported transportation. [19 Tr. 2068-70]. This and other financial limitations, such as those on bonding and the working of the state aid formula whereby suburban districts were able to make far larger per pupil expenditures despite less tax effort, have created and perpetuated systemic educational inequalities. [41 Tr. 4676; 37 Tr. 4187, 4156 (Guthrie); 31 Tr. 3309-10 (Della Dora)] The amount of State aid to local school districts in 1970-71 was three-fourths of a billion dollars. [19 Tr. 2043]. An additional $29 million is spent by the state for pupil transportation [19 Tr. 2065]. The state-wide transportation cost, including local funds, in 1966-67 amounted to $40,339,296.00. [19 Tr. 2070].

56. The State, exercising what Michigan courts have held to be its "plenary power" which includes power "to use a statutory scheme, to create, alter, reorganize or even dissolve a school district, despite any desire of the school district, its board, or the inhabitants thereof," acted to reorganize the school district of the City of Detroit. Act 244 and Act 48 created in the Detroit metropolitan area eight new school boards with certain power and duties. Each of these new districts was as large or larger than any other school district in the state. The eight new districts remain subject to the central Board of Education having broad control over all school affairs. As early as July, 1969, during the period between Act 244 and Act 48, the president of the Detroit Board, pointing out the racial segregation of Detroit when compared with the suburbs and the financial disparity between Detroit and the surrounding districts, called upon the State to end this "confinement" of Detroit. [P.X. 189 at p. 4].

57. The state acted through Act 48 to impede, delay and minimize racial integration in Detroit schools. The first sentence of Sec. 12 of the act was directly related to the April 7, 1970 desegregation plan. The remainder of the section sought to prescribe for each school in the eight districts criterian of "free choice" (open enrollment) and "neighborhood schools" ("nearest school priority acceptance"), which had as their purpose and effect the

maintenance of segregation.[27] The state legislature acted with great dispatch in blocking the April 7 integration plan. Within two days the first changes in Act 244 cleared the state House of Representatives. [41 Tr. 4675]. (Drachler)]. The ultimate statute contained one of the features contained in the first version to pass the House. [§ 2(a) of Act 48]. It changed the 7 racially integrated regions drawn by the pre-call Detroit Board and set up a formula of 8 regions, with criteria, which in the context of the passage of the Act and in particular the more obvious provisions of Sec. 12, were designed in the words of Superintendent Drachler to provide "decreasing opportunities for integration." [41 Tr. 4675]

Testimony throughout the record, in particular that of Mr. Aubrey McCutcheon, indicate some of the impediments which either have arisen or which may make integration more difficult. [36 Tr. 3993-3999(McCutheon); 32 Tr. 3417 (Henrickson); *see* Finding 27, *supra*).

58. If integration on any substantial bases were to occur the new districts or regions as drawn by the State would result in the abandonment of any effective "community control" or the supposed benefits of "decentralization." These two concepts, as described by Dr. Green and Dr. Della-Dora, do not call for particular geographic areas, but rather speak to a "community of people," parents, students, teachers and staff assigned to a particular school or set of schools. [31 Tr. 3308 et seq. (Della-Dora); 8 Tr. 912-13 (Green)]. However, the Court finds that the State's imposed boundaries for these districts impedes efforts to desegregate. [*See:* 31 Tr. 3368, 3369]. The eight regions as drawn were designed as a limitation upon the assignment of students to schools outside of "their regions." [*See* 9/1/70 Tr. 322-23]. The regions establish dual school districts in the Detroit area. [Compare P.X. 143B (April 7 regions) with 144 (present regions)]. The Court further finds that integrated regions similar

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[27] Section 12 of Act 48 which was before the Court of Appeals was held by that Court to be "unconstitutional and of no effect as violative of the 14th Amendment." *Bradley v. Milliken*, 433 F .2d 897 (6th Cir. 1970).

to those established by the pre-recall Board or as shown in the 1969 proposal of the then Board president, including schools in the greater Detroit community (P.X. 189), would enable both the concept of integration and of community control, as defined by these witnesses, to occur. The Court takes judical notice however of the practical problem of harmonizing any theory of "community control" with larger population and the facts of urban life. *See: Mogk v. City of Detroit*, No. 35020 (three-judge court) (E.D. Mich. July 22, 1971) (slip op. p. 6).

I. "State-Imposed Segregation"

59. Under the circumstances set forth in the foregoing findings, the present school segregation did not just happen, and is not adventitious – it is "state-imposed."

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
FLINT 48502

Chambers of
Stephen J. Roth
District Judge

November 5, 1971

TO: All counsel of record.

RE: Civil Action 35257, Bradley v. Milliken.

Gentlemen:

Recently two matters have been submitted to me in the above entitled case: (1) an order prepared by the Attorney General, incorporating the verbal order issued from the Bench and on the record, with all parties represented, on October 4, 1971; (2) a motion for discovery respecting the Magnet Plan. As to the first, I enclose a formal order, prepared by me. As to the second, I believe that the plaintiffs can, if they so desire, ask for an extension of time for the filing of a response and undertake normal discovery. I must add, however, that under the circumstances it appears to me to be unnecessary. The Magnet Plan was ordered as an interim measure, and the Court has ordered the submission of a plan of desegregation of the Detroit public schools not later than December 4th. What that plan will be I do not, of course, know. Our concern will be that plan and not the interim plan. Accordingly, I am withholding action on the motion for discovery.

Very truly yours,

Stephen J. Roth
United States District Judge

SJR:bjg
Enc. (1)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
vs.	)	
WILLIAM G. MILLIKEN, et al., Defendants	)	
DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor	)	CIVIL ACTION NO. 35257
and	)	
DENISE MAGDOWSKI, et al., Defendants-Intervenor	)	

PLAINTIFFS' RESPONSE TO DEFENDANT DETROIT BOARD'S REPORT ON THE MAGNET SCHOOL PROGRAM

Introduction

In response to this Court's Order of November 6, 1970, the defendant Detroit Board (hereafter Board) submitted two plans, in addition to the previously state-rescinded plan, of April 7, 1970, of partial high school desegregation. Priority was given to the so-called Magnet School Plan, which this Court, acceding to the wishes of the Board, approved as an interim measure pending trial on the merits. At that tiral the Court determined that the Detroit School System was indeed an unconstitutional, segregated system. "Ruling on Issue of Segregation," September 27, 1971 (E.D. Mich. C.A. No. 35257) *passim.* And on October 4, 1971, the Court ordered the Board to submit a plan for the desegregation of the Detroit School System within 60 days.

In such circumstances the need for any response to the

Board's self-styled "Progress Report" on the Magnet School Program borders on the unnecessary; like the Court, plaintiffs are primarily concerned with the effectiveness of any plans of desegregation which the Board, and later, state authorities, will submit. However, in the interest of makin plaintiffs' position clear, and perhaps assisting the Court and parties to focus on the much more important deliberations which will begin to proceed over the next several months to consider effective cures for a segregated school system, we make the following response.

I. The Magnet School Program is Ineffective as a Plan of Desegregation.

The Board's "Progress Report" at page 16 candidly admits its failure even to ameliorate school segregation, let alone eradicate all vestiges of segregation as is now required by law:

> The impact of student movement, both at the high school and middle school level, on the racial balance of individual schools throughout the city has generally been less than 2%.

Stated simply, whatever the adequacy of the Magnet School Program in light of the Board's interim duty last November, it is totally inadequate to meet the Board's present obligation. As stated by the Court in its oral order of October 4, 1971, the object now is to "achieve the greatest possible degree of actual desegregation, taking into account the practicalities of the situation." Proceedings Held in *Bradley* v. *Milliken*, October 4, 1971, Tr. p. 6, quoting from *Davis* v. *Bd. of School Commissioners of Mobile County*, 91 S. Ct. 1279, 1292 (1971). (And we note that it has not been suggested, nor could it be on the record in this case, that the "practicalities of the situation" limit the Board's options to the Magnet Plan.) The measure of any desegregation plan is its effectiveness, *Davis* at 1292, whether it works, *Green* v. *New Kent County*, 391 U.S. 430, 439, (1968). Accord, *Swann* v. *Charlotte-Mecklenberg Bd. of Educ.*, 91 S. Ct. 1267, 1274-1275 (1971); *Davis* v. *School Dist. City of Pontiac*, (6th Cir. May 28, 1971); *Johnson v. San Francisco Unified School Dist.*, (N.D. Cal. April 28, 1971). See *Bradley v. Milliken*, 438 F.2d 945, 947 FN 1 (6th Cir. 1971). Under these controlling legal standards, the Magnet School Program totally fails.

II. The Magnet High School Program is Inadequate as a Concept for a Plan of Desegregation.

The Magnet High School Program is premised on freedom of choice or transfer; its thesis is that particular schools can be made so educationally exceptional that white and black parents will opt to send their children to school together. No such concept is acceptable unless it works in fact to eliminate all vestiges of state-imposed segregation; in Detroit, the concept of free choice or transfer, as it has consistently in the past in Detroit and throughout the country, operates "simply to burden children and their parents with a responsibility... placed squarely on the School Board." *Green*, 391 U.S. at 441-442. Having ingrained segregation by its policies and practices over the years, the Board may not now shift the burden of undoing the pattern to those who are its victims. Thus the Supreme Court in *Swann* (91 S.Ct. at 1281) approved majority to minority transfers (with transportation costs and space guaranteed), but only as the final component of an otherwise comprehensive, effective plan.

We have already noted the failure of the so-called magnet program to work as an overall matter to remedy a system of school segregation. Some of the particular failures, however, may be instructive to the Court and the parties in considering plans of desegregation when they are submitted.

The Magnet High School Program's attempt to attract children to specialized curricula has failed. A *net* total of only 592 black students transferred from majority black to majority white schools. [1] "Progress Report" at 16. Even this tiny effect was almost totally eradicated by the net 511 white students who transferred from majority black to majority white high schools. [2]

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[1]
717 black students transferred from majority black to majority white schools; but 125 black students transferred from majority white to majority black schools.

[2]
Only nine white students elected to transfer from majority white to majority black schools; 520 moved from majority black to majority white schools, 326 from schools 90% or more black.

"Progress Report" at 16. Moreover, the concept operates to skew even further the opportunity to desegregate by equalizing plant use. "Progress Report" at 25. Worse, any integration is "one-way": the concept operates to burden black families to chase after whites (who are permitted by the plan to flee) in order to secure constitutional rights which were denied them by the school authorities. The magnet concept, therefore, merely combines many of the unconstitutional actions of the past 15 years in one scheme: optional attendance areas, never busing white students to black schools and never changing a feeder pattern or attendance area to place a predominantly white residential area into a black school despite the enormous and increasing amount of space available in black high schools, and busing white students away from black schools. See "Ruling on Issue of Segregation" at 10-12.

Perhaps it was for all these reasons that, when surveyed, only 21% of the Board, 10% of the region staff, and 32% of the school staff even *expected* that the Magnet High School would be successful for integration. "Progress Report" at 41. Given that by far the largest percentage of those responding to the survey did not *change* their attitudes about the Magnet High School, [3] we question whether school authorities have been completely candid with the Court since the school reorganization [3a] on January 1, 1971. Even under the limited duty of implementing an interim measure, the Board was under some obligation not to waste the Court's, plaintiffs', and taxpayers' time and money [4] by implementing a plan they knew would be ineffective, especially in

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[3]
See "Progress Report" at 21.

[3a]
In passing, we note that the references in the Board's "Progress Report" to preserving the existing scheme of decentralization (e.g. "Progress Report" at 3 and 25) are not relevant. Such state-imposed reorganization of the Detroit school system has already been declared as one of the many unconstitutional state actions maintaining the pattern of segregation therein. "Ruling on Segregation" at 14.

[4]
See "Progress Report" at 23 for a summary of the substantial costs of the magnet programs, totaling almost 1.5 million dollars. This expenditure of funds merely replays the Board's previous failure in "Project One" to attract whites to three schools by spending over one million dollars per year. "Project One" was abandoned by the Board two years ago as a total failure. See Transcipt of November 18, 1970 at 293-294.

light of more promising available alternatives. [5] Given these circumstances, we submit that the Magnet High School Program had the purpose and effect of evading even the modest desegregation of an April 7 type plan. In any event we think it manifest that any further serious mention of the Magnet High School concept as a plan of desegregation in this litigation is unwarranted. [6]

III. The Magnet Middle School is Inadequate as a Concept for a Plan of Desegregation.

Much of what we have already said about the Magnet High School Program applies with equal force to the Magnet Middle School. Its premise is the same: schools can be made so educationally exceptional that white and black parents will opt to send their children to school together. It operates to burden families with the Board's responsibility to end segregation. The only difference is that the Board does not admit in its "Progress Report" the absolute bankruptcy of the concept of the Magnet Middle School as a plan of desegregation, as it does with the Magent High School. Thus we fear that we may hear all too much about the concept in the future.

The most obvious defect in the concept of the Magnet Middle School is that its premise cannot be extended to all schools in a plan of system-wide desegregation. The Magnet Middle School operates in theory to attract blacks and whites to transfer from the their schools of assignment only as long as the Magnet Middle School is exceptional, viewed as better than all other schools in the system. Thus, any "magnetic" effect persists, even in theory,

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[5]

"... the availability to the board of other more promising course of action may indicate a lack of good faith." *Green*, 391 U.S. at 439. Compare the effectiveness of the April 7 plan, as projected by school authorities. Plaintiffs' Exhibit 13. Compare also the effectiveness if the April 7 concept, like the Magnet School Plan, had been extended to all grades of 19 high schools, not to mention all grades of all regions comprising the middle schools, grades 5-8. Cf. also Plaintiffs' Exhibits 11 and 12.

[6]

There is some indication, however, that as late as October, 1971, the Board was seeking additional funding "to strengthen the power of the magnets." "Progress Report" at 4. See also Conclusion, infra at 12-13.

only as long as there are some schools that are identifiable as "better" than others. If all schools in the system raised their per pupil expenditures by the $305/pupil of the present 8 middle schools, or offered "better quality" education no one would have any reason to transfer to the so-called magnet school: there simply would be no "attraction" among "equally powerful magnets." In a plan of system-wide desegregation any effort to make all schools so-called "magnets", therefore, is a self-defeating exercise, much like a dog chasing faster and faster after its own tail but never getting anywhere.

In practice, the magnet middle school also falls short of the constitutionally permissible majority-to-minority transfer system. From the statistics as presented in the "Progress Report" at 10, and in the tables attached as appendices, it is impossible to determine exactly how many and what percentage of the transfers to middle schools were "majority-to-minority." [7] The exact number of white students who transferred to a middle school to escape "black" schools is unclear. But of the 909 white students who transferred out of their attendance area into a middle school, 501 (like 39 blacks) transferred from schools in which they were in a "small minority to schools with a more equal racial balance." "Progress Report" at 10-11. In addition to this particularly virulent strain of "white flight," a table in the appendix shows an additional 404 whites who transferred outside their former attendance area assignment into a middle school who *may* also be escaping what they perceive as "black" schools for a "mixed" middle school: [8] *probably* the number of whites making such "escape" totals 724.[9] The end result for "sending" schools is not

[7] See Part IV for a discussion of what types of statistics will be essential when it does become necessary to evaluate any plan of desegregation submitted.

[8] Appendix B, Table, "Magnet School Enrollments as of October 1, 1971."

[9] That number is derived by subtracting the 735 whites who are now in a middle school with a larger percent of black students than their last school from the total of 1459 white students enrolled in any magnet program. "Progress Report" at 10. Only 844 black students transferred from a school more than 60% black to a middle school in the 40 - 60% range. "Progress Report" at 10.

clear, but the Board admits that at least 4 became more segregated. "Progress Report" at 17. In short, the effect of the magnet middle school is minimal: in part it acts to desegregate both receiving and sending schools; in part it has no effect; in part it acts only as an escape hatch for whites seeking to avoid assignment to a "black" school; in part it segregates "sending" schools even more. [10]

In any event, the Middle School Program affects only a very few children; its very concept and design mean that it can only "succeed" as long as it is an "exception" available to a very few children. The conclusion of this discussion is simple. Where school authorities, under an obligation to eliminate the effects of segregation, permit (or encourage) transfers, they must do so in a way which operates to desegregate the school system; the effect on both receiving and sending schools must be examined: only a majority-to-minority transfer provision is permissible. [11] Thus, the so-called magnet concept is *no* part of the answer to state and local authorities' present obligation to eliminate school segregation.

IV. Reports to the Court and the Parties in the Future Require Precise Data.

Despite the verbiage in the text and the tables contained in the appendices, one element necessary for evaluation of desegregation plans is lacking from the Board's "Progress Report": the

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[10]

Compare the desegregating effect of extending even the limited April 7 type plan to grades 5 through 9: where "black" schools are so paired with "white" schools by school authorities each and every school (and every child in every school) effected *helps* to eliminate segregation in the school system.

[11]

We note, of course, that such transfers are just one of the many tools which can be used to desegregate; the Board must consider all alternatives available and choose those which in combination will operate most effectively completely to eliminate school segregation now and hereafter. *Swann; Mobile; Green; Pontiac; San Francisco.* There is, of course, little need to consider any transfer provision if it is possible to desegregate all schools so that none are substantially disproportionate in their racial composition from the system-wide mix. *Swann.*

racial composition of student enrollment for the total system, for each grade level in the total system, for each school, and for each classroom. (Such racial composition figures only appear in the "Progress Report" for the magnet schools and a few other schools). Without such information, neither the parties nor the Court will be able to evaluate the effectiveness of desegregation plans when they are submitted. We commend to the Court and the parties the minimumal reporting requirements contained in *United States* v. *Hinds County*, 433 F.2d 611, 618-619 (5th Cir. 1970), as a *starting* point for further reports. This should not be a matter of discovery; we respectfully submit that it should be a matter of routine. [12]

V. Any Asserted Conflict between "Quality Education" and Desegregation has no standing in this Litigation.

In one respect we have already discussed educational "quality." We noted how the middle school, even in theory, will "succeed" in attracting transfers by blacks and whites only so long as it is viewed as an exceptional school. We respectfully suggest that this "success" is made at the expense of the rest of the school system. It diverts dollars, energy, and students from all the schools in the system in order to focus on a few; in fact it "succeeds" only to the extent that it operates as the "top track" in the Detroit school system. Throughout this litigation, there has been an unresolved controversy over tracking. All parties, including the Board, agree that tracking serves no educational purpose and has no place in a public school system. See, e.g. 37 Tr. 4151-4153; Drachler Deposition 6/28/71 pp. 159-160; 8 Tr. 889-894, 896-897, 909. Yet the Board with its so-called magnet concept

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[12]

In this regard, we note that the race of students must be considered in evaluating the effectiveness of any proposed remedy: "Just as the race of students must be considered in determining whether a constitutional violation has occurred so also must race be considered in formulating a remedy. To forbid, at this stage, all assignments made on the basis of race, would deprive school authorities of the one tool absolutely essential to fullfillment of their constitutional obligation to eliminate [segregation]. *North Carolina State Board of Education v. Swann*, 91 S. Ct. 1284, 1286 (1971). "Any other approach would freeze the status quo that is the very target of all desegregation processes." *McDaniel v. Baresi*, 91 S. Ct. at 1289 (1971).

attempts to construct an entire school system for the benefit of the few elite who enter the "top track." The Board attempts to desegregate by use of a method of school administration which it has admitted in other contexts is educationally bankrupt.

Perhaps, the Board accepts the premise that to attract whites to attend schools with blacks, schools must somehow be made substantially better. The implication is clear: by shifting its responsibility for school desegregation onto the shoulders of parents, the Board can make the relative "quality" of schools (i.e., acceptability of schools to white transferees an issue in the litigation. A possible indication of this asserted limitation on desegregation can be found in the Board's concluding statements in the "Progress Report" at 32:

> Research shows that integration is most effective in improving school learning ... when middle class students are in a predominant majority. [13] Whether Detroit's magnet schools can succeed in places without a predominant middle class majority remains to be seen.

Plaintiffs share the concern over the quality of education all children receive in the Detroit public school system; but we submit that the obligation to give all children an education in a desegregated school system does *not* depend on the asserted detriment of a particular integrated educational experience. For example, hypothetically, even if the maximum desegregation feasible required all schools in Detroit to be majority black – the substance behind most other talk of the "predominant middle class majority" – any asserted educational harm resulting from such a situation would be *no* defense to the Board's obligation to eradicate segregation. As Judge Sobeloff, so eloquently noted,

> [The] central proposition [of the predominant middle class majority theses] is that the value of a school depends on the

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[13] The omitted portion states that "research" also shows that integration is most effective when it begins early in life. We only note that the Board's "Progress Report" ironically speaks only to desegregation in grade levels five and above.

characteristics of a majority of its students and superiority is related to whiteness, inferiority to blackness. Although the theory is couched in terms of "socio-economic class" and the necessity for the creation of a middle class milieu," nevertheless it rests at bottom on the generalization that, educationally speaking, white pupils are somehow better or more desireable than black pupils . . . This idea, then, is no more than a resurrection of the axiom of black inferiority as a justification for separation of the races, and no less than a return to the spirit of *Dred Scott*. The inventors and proponents of this theory grossly misapprehend the philosophical basis for desegregation. It is not founded upon the concept that white children are a precious resource which should be fairly apportioned. It is not . . . because black children will be improved by association with their betters. Certainly it is hoped that under integration members of each race will benefit from unfettered contact with their peers. But school segregation is forbidden simply because its perpetuation is a living insult to the black children and immeasurably taints the education they receive. This is the precise lesson of *Brown*. Were a court to adopt the [predominant middle class majority] rationale it would do explicitly what compulsory segregation laws did implicitly. *Brunson* v. *Board of Trustees of Sch. Dist. No. 1, Clarendon County*, 426 F.2d 820, 826 (4th Cir. 1970).[14]

Judge Sobeloff's view was affirmed in *Swann*. Such asserted "educational justifications" for limiting desegregation were declared by the Supreme Court to constitute "an arbitrary limitation negating reasonable remedial steps." 91 S.Ct. at 1280 Fn. 8.

Conclusion

Now that this preliminary sparring over so-called "magnet"

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[14] Judge Sobeloff also noted that apart from its racial aspect, the middle class majority defense to desegregation would also be constitutionally impermissible. "From a constitutional standpoint, a program of apartheid according to social class is as impermissible as avowed racial separation – and as repugnant to the Equal Protection Clause. Our Constitution does not permit the insulation of whites from blacks, rich from poor, high class from low class."

plans is finally at an end, plaintiffs like the Court, await the presentation by the Board, and thereafter State authorities, of plans which in good faith attempt to achieve full and complete desegregation of the public schools. It is time to turn our attention to plans of desegregation.

Yet plaintiffs have reason to believe, based on information in addition to the thrust of the Board's "Progress Report" and its admission that the Board has very recently attempted to secure additional money to implement the inadequate magnet concept, that the Board is rejecting consideration of desegregation plans proposed by its staff which place the burden of school desegregation where it belongs, on school authorities not the children and parents. Given the history of failure of free choice or transfer in this system, the consistent (and expensive) failure of all magnet plans in the system from 1966 to date, and the total inadequacy of so-called magnet concepts as plans for system-wide desegregation, we respectfully submit that any presentation to this Court by the Board, or thereafter state authorities, of a desegregation plan which is based on a magnet-type principle constitutes bad faith. On the basis of the present record and submissions by the parties pertaining to the "progress" of implementation of such interim measure, we therefore call upon the Court to foreclose that unpleasant, wasteful, and time-consuming prospect. We move that the Court presently issue an order directing local, and state, school authorities to cease consideration of so-called magnet concepts. Only plans which realistically promise, pursuant to the orders of this Court and the decisions of the Supreme Court, to achieve the greatest possible degree of actual desegregation taking into account the practicalities of the situation should be presented by school authorities to the Court for consideration.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
v.	)	
WILLIAM G. MILLIKEN, et al., Defendants	)	
DETROIT FEDERATION OF TEACHERS LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO Defendant-Intervenor	)	CIVIL ACTION NO. 35257
and	)	
DENISE MAGDOWSKI, et al., Defendants-Intervenor	)	

MOTION TO INTERVENE

The Intervenor, The Grosse Pointe Public School System, Wayne County, Michigan (hereinafter referred to as "Grosse Pointe Schools"), is a Michigan municipal corporation, being a school district of the third class, organized and existing under the provisions of the Michigan School Code of 1955 (Mich. Comp. Laws 340.1 et seq.).

Grosse Pointe Schools moves this Court for leave to intervene as a party defendant in the above entitled cause, upon the following grounds:

1) That Grosse Pointe Schools has a substantial interest relating to the subject matter of the within action.

2) That Grosse Pointe Schools is so situated that the continuance of the proceedings in this action and the granting of certain relief in this cause may, as a practical matter, impair or impede its ability to protect such interest.

3) That the interest of Grosse Pointe Schools is not adequately represented by any of the existing parties to this action.

4) That the claims and defenses of Grosse Pointe Schools and claims, defenses and other matters arising out of the main action have common questions of law and fact.

5) That intervention by Grosse Pointe Schools will not unduly delay or prejudice the adjudication of the rights of the original parties.

6) Concurrence with this motion has been requested and has been denied or has not been acquiesced in by several of the parties to the action.

7) That there is attached hereto in the form of a Proposed Answer, the defense of Grosse Pointe Schools for which intervention is sought.

WHEREFORE, Grosse Pointe Schools prays that this Court grant its motion for leave to intervene in the above entitled cause, alternatively, as of right or by permission, under and in pursuance of the provisions of Rule 24 (a) or Rule 24 (b), respectively, of the Federal Rules of Court Procedure.

HILL, LEWIS, ADAMS, GOODRICH & TAIT

By: _____
Douglas H. West

By: _____
Robert B. Webster
Attorneys for Intervenor,
Grosse Pointe Schools
3700 Penobscot Building
Detroit, Michigan 48226
962-6485

Dated: February 9, 1972

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs v. WILLIAM G. MILLIKEN, et al., Defendants DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor and DENISE MAGDOWSKI, et al., Defendants-Intervenor	CIVIL ACTION NO. 35257

NOTICE OF HEARING

TAKE NOTICE that the Motions to Intervene filed in the above entitled matter have been scheduled for hearing at 9:30 a.m. on Tuesday, February 22, 1972, in the Courtroom of the Honorable Stephen J. Roth, Room 860, Federal Building, Detroit, Michigan 48226.

DATE: February 14, 1972. FREDERICK W. JOHNSON, Clerk

BY: /s/ BEVERLY J. GERULSKI
Beverly J. Gerulski
Deputy Clerk

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs, vs. WILLIAM G. MILLIKEN, et al., Defendants, DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor and DENISE MAGDOWSKI, et al., Defendants-Intervenor.	)	CIVIL ACTION NO: 35257

MOTION BY SOUTHFIELD PUBLIC SCHOOLS TO INTERVENE

Now comes Southfield Public Schools by its attorneys, CONDIT and McGARRY, P.C., and by way of motion to intervene shows unto the court as follows:

1. Southfield Public Schools is a School District and a Public Municipal Corporation of the State of Michigan, organized as a third class district pursuant to the School Code of 1955, 1955 PA 269, being 340.1 et seq., 1948 CL. The School District of Southfield Public Schools enrolls in excess of 16,000 students and geographically borders the City of Detroit, Michigan.

2. Having been informed on or about February 3, 1972 that the State Board of Education of the State of Michigan filed with this Court various proposals for desegration, which plans allegedly in part concern the future education of Southfield students, the Board of Education of Southfield Public Schools at its next regular meeting of February 8, 1972, authorized its counsel to request intervention in these proceedings and thereby protect the best interests of said School District and the welfare of its

students. The grounds upon which this motion is filed are as follows:

INTERVENTION OF RIGHT

(a) The School District of Southfield Public Schools through its elected Board of Trustees is charged with the responsibility of establishing and maintaining a program of elementary and secondary school education for the children of School District residents. Since its inception the School District has consistently provided a quality education for all its students regardless of race, color, religion or national origin. Successive Boards of Education and professional educators serving as administrators have traditionally supported the neighborhood school concept as the most effective means of achieving quality education. Historically, the School District residents have supported their School District, not only by citizen participation in school affairs, but also by assuming additional tax burdens, often at considerable sacrifice, so that proper financing would be available for school operation and construction.

(b) On information and belief, the subject matter of the above-entitled litigation, although not apparent from its inception, now directly concerns the future educational program of Southfield Public Schools by reason of the various proposals for desegregation providing for drastic revision of local school district responsibilities and prerogatives as well as the proposed disruption and transportation of school children from their neighborhood schools to schools outside the district. The mere consideration of said desegregation proposals implies that Southfield Public Schools may be included in a future judgment of this Court and expected to comply therewith.

(c) Southfield Public Schools represents to the Court that it is not now directly or indirectly represented by counsel in any of the proceedings to date.

PERMISSIVE INTERVENTION

(a) The relief proposed by some of the litigants in this lawsuit raises substantial questions of law and fact, the resolution of which could seriously and materially interfere with presently constituted rights of the School District. This is particularly so since

Southfield Public Schools was not a party to the proceedings thus far which have formed the basis for the Court's judicial intervention and prospective equitable relief. Without an opportunity to be heard, the School District will be unable to advocate its position concerning the common questions before the Court. Such a result will only serve to extend the controversy and further frustrate the School District and its patrons who are presently situated on the side lines of the litigation.

(b) The proposed intervention of Southfield Public Schools will not delay or prejudice the adjudication of the rights of the original parties, many of whom allegedly would in fact support the requested intervention.

CLAIM OF INTERVENOR

3. Based upon the foregoing, it is the position of Southfield Public Schools that the judicial intervention should not lawfully or properly be extended to this School District and that equity necessitates the opportunity to be heard on the critical issues before the Court.

4. Based upon the rather rapid development of events, particularly, the publication on February 15, 1972, of the Court's intention to schedule intervention hearings for February 22, 1972, Southfield Public Schools requests leave to file a formal pleading on or about the forthcoming hearing date.

This motion is based upon FR Civ P, 24(a)(2) and 24(b)(2).

WHEREFORE, Southfield Public Schools prays that this Court enter its order permitting intervention as a party to this Litigation and for such other and further relief as the Court may deem proper.

SOUTHFIELD PUBLIC SCHOOLS

CONDIT and McGARRY, P.C.

By /s/RICHARD P. CONDIT

Richard P. Condit
Attorneys for Southfield Public Schools
860 West Long Lake Road
Bloomfield Hills, Michigan 48013
645-5205

Dated: February 16, 1972

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,
Plaintiffs,
v.
WILLIAM G. MILLIKEN, et al.,
Defendants,
DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO,
Defendant-Intervenor,
DENISE MAGDOWSKI, et al.,
Defendants-Intervenor,
and
ALLEN PARK PUBLIC SCHOOLS, SCHOOL DISTRICT OF THE CITY OF BERKLEY, BRANDON SCHOOLS, CENTERLINE PUBLIC SCHOOLS, CHERRY HILL SCHOOL DISTRICT, CHIPPEWA VALLEY PUBLIC SCHOOLS, SCHOOL DISTRICT OF THE CITY OF CLAWSON, CRESTWOOD SCHOOL DISTRICT, DEARBORN PUBLIC SCHOOLS, DEARBORN HEIGHTS SCHOOL DISTRICT NO. 7, EAST DETROIT PUBLIC SCHOOLS, SCHOOL DISTRICT OF THE CITY OF FERNDALE, FLAT ROCK COMMUNITY SCHOOLS, GARDEN CITY PUBLIC SCHOOLS, GIBRALTAR SCHOOL DISTRICT, SCHOOL DISTRICT OF THE CITY OF HARPER WOODS, SCHOOL DISTRICT OF THE CITY OF HAZEL PARK, INTERMEDIATE SCHOOL DISTRICT OF THE COUNTY OF MACOMB, LAKE SHORE PUBLIC SCHOOLS, LAKE-

VIEW PUBLIC SCHOOLS, THE LAMPHERE SCHOOLS, LINCOLN PARK PUBLIC SCHOOLS, MADISON DISTRICT PUBLIC SCHOOLS, MELVINDALE-NORTH ALLEN PARK SCHOOL DISTRICT, SCHOOL DISTRICT OF NORTH DEARBORN HEIGHTS, NOVI COMMUNITY SCHOOL DISTRICT, OAK PARK SCHOOL DISTRICT, OXFORD AREA COMMUNITY SCHOOLS, REDFORD UNION SCHOOL DISTRICT NO. 1, RICHMOND COMMUNITY SCHOOLS, SCHOOL DISTRICT OF THE CITY OF RIVER ROUGE, RIVERVIEW COMMUNITY SCHOOL DISTRICT, ROSEVILLE PUBLIC SCHOOLS, SOUTH LAKE SCHOOLS, TAYLOR SCHOOL DISTRICT, WARREN CONSOLIDATED SCHOOLS, WARREN WOODS PUBLIC SCHOOLS, WAYNE-WESTLAND COMMUNITY SCHOOLS, WOODHAVEN SCHOOL DISTRICT and WYANDOTTE PUBLIC SCHOOLS,

Applicants for Intervention.

MOTION TO INTERVENE AS PARTIES DEFENDANT

NOW COMES Allen Park Public Schools, School District of the City of Berkley, Brandon Schools, Centerline Public Schools, Cherry Hill School District, Chippewa Valley Public Schools, School District of the City of Clawson, Crestwood School District, Dearborn Public Schools, Dearborn Heights School District No. 7, East Detroit Public Schools, School District of the City of Ferndale, Flat Rock Community Schools, Garden City Public Schools, Gibraltar School District, School District of the City of Harper Woods, School District of the City of Hazel Park, Intermediate School District of the County of Macomb, Lake

Shore Public Schools, Lakeview Public Schools, The Lamphere Schools, Lincoln Park Public Schools, Madison District Public Schools, Melvindale-North Allen Park School District, School District of North Dearborn Heights, Novi Community School District, Oak Park School District, Oxford Area Community Schools, Redford Union School District No. 1, Richmond Community Schools, School District of the City of River Rouge, Riverview Community School District, Roseville Public Schools, South Lake Schools, Taylor School District, Warren Consolidated Schools, Warren Woods Public Schools, Wayne-Westland Community Schools, Woodhaven School District and Wyandotte Public Schools, by their attorneys, BUTZEL, LONG, GUST, KLEIN & VAN ZILE, and move this Honorable Court for leave to intervene as parties defendant in this action pursuant to F.R.C.P. 24 upon the following grounds:

1. Movants are school districts situated in Wayne, Oakland and Macomb Counties, State of Michigan, whose rights and interests are substantially affected by the proceedings in this action.

2. Movants are so situated that the disposition of this action may as a practical matter impair or impede their ability to protect their interests.

3. The rights and interests of Movants are not now being adequately represented by the existing parties.

4. The claims and defenses of Movants present questions of fact and law in common with the main action.

5. Intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.

6. On February 16, 1972, counsel for Movants requested the concurrence of the Defendant Detroit Board of Education with respect to Movants' intervention in this action, which concurrence was denied by counsel for the Detroit Board of Education, and hence it is necessary to bring this Motion.

WHEREFORE, Movants pray the Court grant their Motion to Intervene in this action.

BUTZEL, LONG, GUST, KLEIN
& VAN ZILE

By /s/ WILLIAM M. SAXTON
William M. Saxton

By /s/JOHN B. WEAVER
John B. Weaver

By /s/ ROBERT M. VERCRUYSSE
Robert M. Vercruysse

Attorneys for Intervenors

1881 First National Building
Detroit, Michigan 48226
Telephone: (313) 963-8142

Dated: February 16, 1972.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
vs.	)	
WILLIAM G. MILLIKEN, et al., Defendants	)	
DETROIT FEDERATION OF TEACHERS LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor	)	CIVIL ACTION NO. 35257
and	)	
DENISE MAGDOWSKI, et al., Defendants-Intervenor	)	

RULE 24 MOTION TO INTERVENE

COMES NOW Intervenor applicant, The School District of the City of Royal Oak, a Michigan Municipal Corporation and School District of the 3rd Class, respectfully moving this Honorable Court for leave to intervene as a Defendant in the captioned cause for the following reasons:

1. Said applicant may have a substantial interest in the subject matter of this cause depending, of course, upon the remedy ultimately fashioned by this Court in said cause.

2. Said applicant's interest is not being directly or adequately represented by any of the existing parties to this cause.

3. Said applicant's capacity to perform its [fidicuary] duties to all children, parents and other entitities located within its district may, as a practical matter, be measureably impaired and impeded unless it is allowed to present all material facts relevant thereto prior to this Court's determination of the ultimate remedy in this cause.

4. Grant of said applicant's requested intervention will not unduly delay or prejudice final adjudication of the pleaded claims

and defenses containing mainly common questions of law and fact upon which this Court must pronounce the appropriate remedy.

5. Prior to the scheduled hearing of this Motion, said applicant will request concurrence or acquiescence in the relief sought from other parties to this cause but success is not anticipated.

6. This Motion is based upon the files and records of this cause and the Affidavit of Donald M. Currie annexed hereto.

WHEREFORE, Intervenor applicant, the School District of the City of Royal Oak, respectfully prays that this Honorable Court grant its Motion for leave to intervene in this captioned cause in keeping with the provisions of the above-mentioned rule.

HARTMAN, BEIER, HOWLETT,
McCONNELL & GOOGASIAN

By: /s/KENNETH B. McCONNELL
Kenneth B. McConnell
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Applicant, School District
of the City of Royal Oak
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645-9400

DATED: February 17, 1972.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
FLINT 48502

DATE: March 6, 1972

SUBJECT: Detroit School Case, Civil Action No. 35257, Bradley v. Milliken, et al.

RE: Notice to Counsel for Parties Seeking Intervention.

It is expected that rulings on applications for intervention in this case will be made on or about March 15, 1972. So that counsel may be put on notice a copy of scheduling sent to counsel for present parties is addressed to you.

You may, if you wish, submit your views on "conditions" of intervention not later than March 14, 1972.

/s/ STEPHEN J. ROTH
Stephen J. Roth
United States District Judge

Enc. (1)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs v. WILLIAM G. MILLIKEN, et al., Defendants DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor and DENISE MAGDOWSKI, et al., Defendants-Intervenor	CIVIL ACTION NO: 35257

PROOF OF MAILING

State of Michigan)
) ss.
County of Genesee)

I, the undersigned, hereby certify that on the 6th day of MARCH, A.D. 1972, I mailed copies of:

1. NOTICE TO COUNSEL (present parties)
2. NOTICE TO COUNSEL FOR PARTIES SEEKING INTERVENTION (intervenors, with enc.)

to the following persons at the addresses given below:

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Honorable Frank J. Kelley, Attorney Gen.
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Dated this 6th day of MARCH, A.D. 1972, at Flint, Michigan.

/s/ BEVERLY J. GERULSKI
Beverly J. Gerulski
Deputy Clerk

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March 13, 1972

Honorable Stephen J. Roth
United States District Judge
600 Church St.
Flint, Michigan 48502

Re: Bradley *v.* Milliken
Civil Action No. 35257

Dear Judge Roth:

Thank you for your letter of March 6, 1972, addressed to us as counsel for The Grosse Pointe Public School System, one of the parties seeking intervention in the captioned cause.

In your letter you granted permission to submit our views on "conditions" of intervention, and in this regard, we would like to state as follows:

1) The Grosse Pointe Public School System has sought intervention for two principal reasons, which are:

a) To participate in the litigation of the question of the legal propriety of the implementation of a metropolitan plan for the desegregation of the School System of the City of Detroit which would directly involve The Grosse Pointe Public School System,

b) To offer objections, modifications or alternatives to metropolitan plans of desegregation presented to the Court by other parties; insofar as such plans affect the interests of The Grosse Pointe Public School System.

2) It is not the intention of The Grosse Pointe Public School System to reopen any matters previously adjudicated by the Court except as the same may directly affect the interests of The Grosse Pointe Public School System. Specifically, we do not wish to litigate the question of *de jure* segregation in the Detroit Public School System. We intend to approach this litigation in a positive and constructive manner and to minimize any administrative problems which may be created by the addition of a number of additional counsel to the proceedings.

3) Regarding "conditions" which might be imposed on our intervention, it is our position that The Grosse Pointe Public School System should be afforded the full status of a party litigant to the proceedings with no limitation as to its participation, as has been heretofore granted by the Court to other intervenors in this cause. We would have no objection, however, if the Court should provide in its Order that no claims or defenses previously adjudicated will be reasserted, with the exception of such as may directly affect the interests of The Grosse Pointe Public School System.

We also note that in your notice to counsel for present parties to the litigation, you have scheduled the receipt of briefs on the propriety of a metropolitan remedy on March 22, 1972. Because we will not be informed by the Court until on or about March 15, 1972 as to whether or not intervention will be permitted, The Grosse Pointe Public School System requests than an extension of time for this purpose be granted.

Very truly yours,

HILL, LEWIS, ADAMS, GOODRICH & TAIT

Douglas H. West

DHW: pm
c.c. All counsel of record

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
v.	)	
WILLIAM G. MILLIKEN, et al., Defendants	)	
DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor	)	CIVIL ACTION: 35257
and	)	
DENISE MAGDOWSKI, et al., Defendants-Intervenor	)	

NOTICE TO COUNSEL

1. Hearing on desegregation intra-city plans will proceed, beginning at 10:00 a.m., Tuesday, March 14, 1972.

2. Recommendations for "conditions" of intervention to be submitted not later than 10:00 a.m., March 14, 1972.

3. Briefs on propriety of metropolitan remedy to be submitted not later than March 22, 1972.

4. Tentatively and unless the court rules otherwise, hearings on metropolitan remedy to commence 10:00 a.m., March 28, 1972.

DATE: March 6, 1972.

/s/ STEPHEN J. ROTH

Stephen J. Roth
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
v.-	)	
WILLIAM G. MILLIKEN, et al., Defendants	)	
DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor	)	CIVIL ACTION NO: 35257
and	)	
DENISE MAGDOWSKI, et al., Defendants-Intervenor	)	

RULING AND ORDER ON PETITIONS FOR INTERVENTION

At a session of said Court held in the Federal Building, City of Detroit, County of Wayne, on this 15th day of MARCH, A.D. 1972.

PRESENT: HONORABLE STEPHEN J. ROTH,

United States District Judge

The motion of intervening defendants Denise Magdowski, et al. to add parties defendant is continued under advisement, to await further developments in this proceeding.

Ruling on the motion of the Jefferson-Chalmers Citizens District Council to intervene is continued in accordance with the request of the movant.

The motions of Allen Park Public Schools, et al., the Grosse Pointe Public Schools, the School District of the City of Royal Oak and the Southfield Public Schools are GRANTED, under

Federal Rules of Civil Procedure, Rule 24(a)(2) and, in the alternative, under Rule 24(a)(2), under conditions hereinafter specified.

The motion of Kerry Green, et al., including Tri-County Citizens for Intervention in Federal School Action No. 35257, is GRANTED under Rule 24(b) (2), under conditions hereinafter specified. The intervention of the Tri-County Citizens for Intervention is granted for the following reasons: (1) The standing of the National Association for the Advancement of Colored People was not challenged by the original parties to this action; (2) For practical purposes the grant of intervention to Kerry Green, et al. is a grant of intervention to said organization. The court, for the reasons stated, has not and does not pass on the procedural propriety of either the standing of the NAACP or the intervention of the citizens' group.

The motion of the City of Warren, a municipal corporation of the State of Michigan, to intervene, is DENIED, as of right, under Rule 24(a)(2), and in the discretion of the court, under Rule 24(b)(2).

The motion of Nancy Bird, et al., to intervene, is DENIED, under Rule 24(a)(2), and under Rule 24(b)(2), in the discretion of the court, for the reason that their interests are already adequately represented by the parties, including those to whom intervention has been granted this day.

The motion of Professional Personnel of Van Dyke, to intervene, is DENIED, under Rule 24(a)(2) and, in the discretion of the court, under Rule 24(b)(2).

The petitioners who have been denied intervention shall have a right to appear as amicus curiae.

The interventions granted this day shall be subject to the following conditions:

1. No intervenor will be permitted to assert any claim or defense previously adjudicated by the court.

2. No intervenor shall reopen any question or issue which has previously been decided by the court.

3. The participation of the intervenors considered this day shall be subordinated to that of the original parties and previous intervenors.

4. The new intervenors shall not initiate discovery proceedings except by permission of the court upon application in writing, accompanied by a showing that no present party plans to or is willing to undertake the particular discovery sought and that the particular matter to be discovered is relevant to the current stage of the proceedings.

5. No new intervenor shall be permitted to seek a delay of any proceeding in this cause; and he shall be bound by the brief and hearing schedule established by the court's Notice to Counsel, issued March 6, 1972.

6. New intervenors will not file counterclaims or cross-complaints; nor will they be permitted to seek the joinder of additional parties or the dismissal of present parties, except upon a showing that such action will not result in delay.

7. New intervenors are granted intervention for two principal purposes: (a) To advise the court, by brief, of the legal propriety or impropriety of considering a metropolitan plan; (b) To review any plan or plans for the desegregation of the so-called larger Detroit Metropolitan area, and submitting objections, modifications or alternatives to it or them, and in accordance with the requirements of the United States Constitution and the prior orders of this court.

8. New intervenors shall present evidence, if any they have, through witnesses to a number to be set, and limited, if necessary, by the court, following conference.

9. With regard to the examination of witnesses, all new intervenors shall among themselves select one attorney per witness to act for them, unless one or more of the new intervenors show cause otherwise.

These conditions of intervention shall remain subject to change or modification by the court in the interest of timely disposition of the case.

DATE: March 15, 1972.

/s/_____

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs,	)	
v.	)	
WILLIAM G. MILLIKEN, et al., Defendants,	)	CIVIL ACTION NO. 35257
DETROIT FEDERATION OF TEACHERS, LOCAL No.231, AMERICAN FEDERATION OF TEACHERS, AFL–CIO, Defendant-Intervenor,	)	
DENISE MAGDOWSKI, et al., Defendants-Intervenor,	)	
and	)	
ALLEN PARK PUBLIC SCHOOLS, SCHOOL DISTRICT OF THE CITY OF BERKELY, BRANDON SCHOOLS, CENTERLINE PUBLIC SCHOOLS, CHERRY HILL SCHOOL DISTRICT, CHIPPEWA VALLEY PUBLIC SCHOOLS, SCHOOL DISTRICT OF THE CITY OF CLAWSON, CRESTWOOD SCHOOL DISTRICT, DEARBORN PUBLIC SCHOOLS, DEARBORN HEIGHTS SCHOOL DISTRICT NO. 7, EAST DETROIT PUBLIC SCHOOLS, SCHOOL DISTRICT OF THE CITY OF FERNDALE, FLAT ROCK COMMUNITY SCHOOLS, GARDEN CITY PUBLIC SCHOOLS, GIBRALTAR SCHOOL DISTRICT, SCHOOL DISTRICT OF THE CITY OF HARPER WOODS, SCHOOL DISTRICT OF THE CITY OF HAZEL PARK, INTERMEDIATE SCHOOL DISTRICT OF THE COUNTY OF MACOMB, LAKE SHORE PUBLIC SCHOOLS, LAKEVIEW PUBLIC SCHOOLS, THE LAMPHERE SCHOOLS, LINCOLN PARK PUBLIC SCHOOLS, MADISON DISTRICT	)	

PUBLIC SCHOOLS, MELVINDALE-NORTH ALLEN PARK SCHOOL DISTRICT, SCHOOL DISTRICT OF NORTH DEARBORN HEIGHTS, NOVI COMMUNITY SCHOOL DISTRICT, OAK PARK SCHOOL DISTRICT, OXFORD AREA COMMUNITY SCHOOLS, REDFORD UNION SCHOOL DISTRICT NO. 1, RICHMOND COMMUNITY SCHOOLS, SCHOOL DISTRICT OF THE CITY OF RIVER ROUGE, RIVERVIEW COMMUNITY SCHOOL DISTRICT, ROSEVILLE PUBLIC SCHOOLS, SOUTH LAKE SCHOOLS, TAYLOR SCHOOL DISTRICT, WARREN CONSOLIDATED SCHOOLS, WARREN WOODS PUBLIC SCHOOLS, WAYNE-WESTLAND COMMUNITY SCHOOLS, WOODHAVEN SCHOOL DISTRICT and WYANDOTTE PUBLIC SCHOOLS,

Defendants-Intervenors.

OBJECTIONS TO CONDITIONS PLACED ON INTERVENORS BY THE RULING AND ORDER ON PETITIONS FOR INTERVENTION DATED MARCH 15, 1972

NOW COMES Allen Park Public Schools, et al, Defendants-Intervenors, by their attorneys, Butzel, Long, Gust, Klein & Van Zile, and do hereby make objections to the conditions imposed by this Court in connection with the granting of said Defendants-Intervenors Motion for Intervention upon the following grounds:

1. "No intervenor shall be permitted to assert any claim or defense perviously adjudicated by the Court."

Defendants-Intervenors object to the foregoing condition to the extent that the same is intended to, or does, preclude

Defendants-Intervenors from asserting any claim or defense in pursuance of protecting the rights and interest of said Defendants-Intervenors, and with respect to which Defendants-Intervenors have not had the opportunity to present evidence and argument.

In acknowledging Defendants-Intervenors right to intervene in this action, pursuant to Rule 24 (a)(2) of the Federal Rules of Civil Procedure, this Court necessarily took cognizance of the fact that Defendants-Intervenors have not been, and are not now, adequately represented by the principal parties and prior intervenors. Accordingly, it is submitted that to preclude Defendants-Intervenors from asserting claims or defenses, limited to the protection of their own interests, because said claim or defense may have been previously adjudicated by the Court, is unreasonable and serves to effectively preclude Defendants-Intervenors from adequately presenting a case in protection of their own interests.

As stated in *Moore's Federal Practice*, Second Edition, Volume 3-B, Section 24. 16[4].

> "There seems to be no doubt that an intervenor having an absolute right to intervene is able to raise any one of these questions. It would be meaningless to give him an absolute right to intervene in order to protect his interest, if once in the proceeding he were barred from raising questions necessary for his own protection . . ."

2. "No intervenor shall re-open any question or issue which has previously been decided by the court."

Defendants-Intervenors object to the foregoing condition for the same reasons and on the same grounds as set forth immediately above in paragraph 1.

3. "The participation of the intervenors considered this day shall be subordinated to that of the original parties and previous intervenors."

The subordination requirement that was contained in Equity

Rule 37, which governed intervention prior to the adoption of Rule 24 of the Federal Rules of Civil Procedure, was not carried over into the present Rule 24. In this regard, *Moore's Federal Practice*, Second Edition, Volume 3-B, Section 24.05, notes as follows:

> "Rule 24 has made one important change in substance. It did not incorporate the provisions of the Equity Rule which defined the status of the intervenor. There is no requirement that the intervention be in subordination to, and in recognition of, the propriety of the main proceeding. In brief, the intervenor's claim or defense is to be heard on the merits."

And, in *In Re Oceana International, Inc.*, 49 FRD 329, 333-334 (S. D. NY, 1969; rehearing 1970), the Court stated that –

> "Once intervention as of right has been granted, an intervenor should be entitled to litigate fully on the merits, see *Park & Tilford, Inc. v. Schulte*, 160 F 2d 984 (2d Cir. 1947), and to be considered a party for all purposes, *In re Raabe, Glissman & Co.*, 71 F. Supp. 678, 680 (S. D. N. Y. 1947)."

The Court having necessarily found that Defendants-Intervenors interest were not adequately represented by the existing parties, it is incongruous and unreasonable to then subordinate Defendants-Intervenors participation, in protection of their own interest, to that of the original parties and previous intervenors.

Moreover, Defendants-Intervenors can perceive of no reasonable basis upon which their participation should be subordinated to that of the previous intervenors or otherwise circumscribed in any manner different from the conditions, or lack of conditions, imposed upon the previous intervenors.

4. "The new intervenors shall not initiate discovery proceedings except by permission of the court upon application in writing, accompanied by a showing that no present party plans to

or is willing to undertake the particular discovery sought and that the particular matter to be discovered is relevant to the current stage of the proceedings."

Defendants-Intervenors are "parties" to the instant action and should not be precluded from initiating discovery proceedings pursuant to Rule 26 of the Federal Rules of Civil Procedure in furtherance of protecting their interest in the litigation.

> "So once intervention has been granted the intervenor becomes a 'party', within the meaning of the Rules, 'entitled to litigate fully on the merits.' *Park & Tilford v.Schulte*, 2 Cir., 160 F2d 984, note 1, certiorari denied, 1947, 322 U.S. 761, 68 S. Ct. 64, 92 L. Ed 347; see: *French v.Gapen*, 1881, 105 U. S. 509, 525, 26 L. Ed 951; *Galbreath v. Metropolitan Trust Co.*, 10 Cir., 1943, 134 F 2d 845, 859." *Hartley Pen Co. v. Lindy Pen Co.*, 16 FRD 141, 153, 20 FR Serv 24c 31, Case 2 (S. D. Cal 1954).

While it is within the sound discretion of the Court to place bounds on the extent of discovery, such discretion should not be exercised so as to affect a party's substantial rights. *Goldman* v *Checker Taxi Co.*, 325 F2d 853, 856 (CA 7, 1963).

The foregoing condition is unduly restrictive and deprives Defendants-Intervenors of the liberal treatment intended to be accorded discovery rules by the Federal Rules of Civil Procedure. It is submitted that any limitations upon the right of discovery should be made at the time discovery is sought, taking into account the purpose of the requested discovery and its relevancy to the proceedings.

5. "No new intervenor shall be permitted to seek a delay of any proceeding in this cause; and he shall be bound by the brief and hearing schedule established by the court's Notice to Counsel, issued March 6, 1972."

While Defendants-Intervenors do not intend to seek to delay the proceedings for frivilous reasons, they object to being summarily foreclosed from making any application to the Court

for adjournment or continuance of the proceedings for good cause shown.

The instant case was commenced on August 18, 1970, and from the date of commencement until the Court's request for submission of a so-called Metropolitan Plan, on October 4, 1971, the case was concerned solely with the City of Detroit school district. What started out as a case involving the establishment of attendance zones in the City of Detroit so as to perpetuate racial segregation of students in that school district has now turned into a case which may affect numerous independent school districts. In this regard the case has been expanded far beyond the constitutional mandate requiring that the Detroit school district maintain a non-segregated school system.

There is no established judicial precedent for the adoption of such a broad and sweeping plan as the so-called Metropolitan Plan submitted to this Court. In this regard this case presents novel questions which bear upon the structure and operation of school districts independent from the City of Detroit and would require that certain laws of the State of Michigan dealing with the organization and operation of school districts be directly or indirectly declared unconstitiutional.

In short, the posture of the instant action has changed drastically from its inception to the present stage of proceedings. The desire and need for expeditious resolution of the matters before the Court is conceded. However, a rush to judgment at the expense of depriving interested and affected parties a fair and ample opportunity to prepare a case in protection of their interest would be improvident and unreasonable.

In *Goss* v *Board of Education of the City of Knoxville, Tennessee*, 444 F 2d 632 (CA 6, 1971), the Court refused to impose a rigid timetable in a school desegregation case, noting as follows:

> "Therefore, it has taken the federal judiciary of this country 17 years to come up with final answers, it will be

judicially arrogant for us to tell the school authorities of Knoxville to get the job done in the few months that will be available before the opening of the 1971 fall session . . .

"The hope or dream, that one day we will have become a people without any motivations born of our different racial beginnings will have a better chance of fulfillment if patience accompanies our endeavors. Strident and truculent judicial commands could indeed exacerbate what may now remain of racial bias and prejudice." *Ibid*, at pp. 639-640.

Defendants-Intervenors had no occasion or standing to intervene in this case until the Court undertook consideration of a remedy directly affecting them. Defendants-Intervenors were granted leave to intervene only five (5) days ago and counsel did not even have copies of the so-called Metropolitan plans until three days ago. At this time counsel for Defendants-Intervenors cannot foretell all future requirements in connection with the protection of Defendants-Intervenors interest.

Defendants-Intervenors agree that delay merely for the sake of delay should not be countenanced. It is resepectfully submitted, however, that the Court should reconsider its declaration absolutely foreclosing any request for continuance or adjournment and permit the filing of such request, the same to be considered by the Court and determined on the basis of inherent fairness to all concerned as well as the desire for expeditious conclusion of the proceedings.

6. "New intervenors will not file counterclaims or cross-complaints; nor will they be permitted to seek the joinder of additional parites or the dismissal of present parties, except upon a showing that such action will not result in delay."

Defendants-Intervenors are "parties" to the instant litigation within the meaning of the Federal Rules of Civil Procedure and are entitled to litigate fully on the merits. *Hartley Pen Co.* v *Lindy Pen Co.*, 16 FRD 141, 153, 20 FR Serv 24c31, Case 2 (SD Cal. 1954). Fundamental due process requires that a party sought to be affected by a proceeding shall have the right to raise such issues

or set up any defense which he may have in the cause. As noted in *Holt* v *Virginia*, 381 US 131, 136(1963),14 L Ed 2d 290, 85 S Ct 1376 -

> "The right to be heard must necessarily embody a right to file motions and pleadings essential to present claims and raise relevant issues."

While the disposition of any counterclaims, cross-complaints or other pleadings rests with the sound discretion of the Court, it is submitted that a denial of the right to file any pleadings, and a prospective rejection of same without consideration, is unreasonable.

7. "New intervenors are granted intervention for two principal purposes: (a) To advise the court, by brief, of the legal propriety or impropriety of considering a metropolitan plan; (b) To review any plan or plans for the desegregation of the so-called larger Detroit Metropolitan area, and submitting objections, modifications or alternatives to it or them, and in accordance with the requirements of the United States Constitution and the prior orders of this court."

Defendants-Intervenors have intervened in this action for the purpose of protecting their interest in the subject matter and submit that their participation in these proceedings may not properly be circumscribed so as to preclude them from fully and adequately protecting such interest.

Defendants-Intervenors note that in the above-quoted condition the Court refers to "plans for the desegregation of the so-called larger Detroit Metropolitan area". Defendants-Intervenors submit that there has been no hearing or determination as to whether the larger Detroit Metropolitan area is unlawfully segregated and that consideration of any plan on the basis of desegregating the Metropolitan area is improper.

8. "New intervenors shall present evidence, if any they have, through witnesses to a number to be set, and limited, if necessary, by the court, following conference."

Defendants-Intervenors have no objection to the above condition as stated but reserve the right to present objections to the extent any ruling precludes Defendants-Intervenors from a full and fair presentation of their case in protection of their interest.

9. "With regard to the examination of witnesses, all new intervenors shall among themselves select one attorney per witness to act for them, unless one or more of the new intervenors show cause otherwise."

Defendants-Intervenors submit that the above-quoted condition is unreasonable, improper and will serve to hinder, rather than assist, the expeditious trial of this proceeding.

In granting the motions to intervene, the Court acknowledged the independent interest of the various intervenors. To require then that parties with varied and independent interests must relinquish their right to have their cause presented by the counsel of their choice is unreasonable.

In *Chandler* v *Fretag*, 348 US 3, 10 (1954), 99 L Ed 4, 75 S Ct 1, the U. S. Supreme Court, with emphasis, stated as follows:

> *"... If in any case, civil or criminal, a state or federal court were arbitrarily to refuse to hear a party by counsel, employed by and appearing for him, it reasonably may not be doubted that such a refusal would be a denial of a hearing, and, therefore, of due process in the constitutional sense."*

The problems involved in all of the new intervenors selecting a single attorney to examine or cross-examine a witness not only poses practical problems for the intervenors and their counsel but will, in all likelihood, serve to unnecessarily burden the hearing. For example, if a witness called by Plaintiffs is tendered for cross-examination, counsel would need time to confer among themselves in order to determine who was to conduct the cross-examination and what the extent and nature of the cross-examination would encompass. It is submitted that the Court can adequately control the examination by individual counsel through

its power to regulate the extent of cumulative and improper examination.

Defendant-Intervenors are informed that prior-admitted intervenors were not subjected to the condition above-quoted and were permitted to protect their interests through the counsel chosen and employed by them. As noted hereinbefore, we do not perceive any reasonable basis for proscribing the participation of Defendants- Intervenors having permitted previous intervenors to participate in a manner adequate to protect their interests and through counsel of their own choosing. The only reason Defendants-Intervenors did not request intervention at an earlier date is because there was no indication that these proceedings would affect their interest. The proceedings, however, now affect their interests and they should be accorded the right to be fully represented by their own counsel.

The management problem attendant to the presence of a number of attorneys representing different parties does not provide a reasonable basis for the emasculation of the fundamental right of a party to have his case presented by counsel employed for such purpose.

Defendants-Intervenors respectfully request that this Court reconsider the conditions imposed in connection with their intervention and permit Defendants-Intervenors to protect their interest in these proceedings consonant with established rules of fairness and due process customarily accorded to parties litigant.

Respectfully submitted,

BUTZEL, LONG, GUST, KLEIN & VAN ZILE

By /s/
William M. Saxton

By /s/
John B. Weaver

1881 First National Building
Detroit, Michigan 48226
Telephone: (313) 963-8142

Dated:
March 20, 1972

Attorneys for Defendants-Intervenors
Allen Park Public Schools, et al

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
v.	)	
WILLIAM G. MILLIKEN, et al., Defendants	)	
DETROIT FEDERATION OF TEACHERS LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO Defendant-Intervenor	)	Civil Action No. 35257
and	)	
DENISE MAGDOWSKI, et al. Defendants-Intervenor	)	

OBJECTIONS OF GROSSE POINTE SCHOOLS TO CONDITIONS ON INTERVENTION BY RULING AND ORDER DATED MARCH 15, 1972

GROSSE POINTE SCHOOLS, Defendant Intervenor, by its attorneys, Hill, Lewis, Adams, Goodrich & Tait, objects to the conditions placed on its participation in this cause as contained in paragraphs 1 through 9 of the Ruling and Order on Petitions for Intervention entered by this Honorable Court on March 15, 1972, as follows:

1) Grosse Pointe Schools objects to conditions 1 and 2, to the extent the same are more restrictive than those proposed in Grosse Pointe School's letter of suggested conditions addressed to this Court, dated March 13, 1972, a copy of which is hereto attached.

2) Grosse Pointe Schools objects to conditions 3 through 9, for the reason that Grosse Pointe Schools has been granted intervention by this Court, of right, under Rule 24(a) (2) of the Federal Rules of Civil Procedure, and it should accordingly be

granted the full unsubordinated status of a party defendant to this cause so that it may adequately protect its interests.

3) In support of the objections herein contained, Grosse Pointe Schools adopts, by reference, the reasons therefor contained in the Objections to Conditions, filed by Defendants-Intervenors Allen Park Public Schools, et al.

Respectfully submitted,

HILL, LEWIS, ADAMS, GOODRICH & TAIT

By: /s/ _____

Douglas H. West

By: /s/ _____

Robert B. Webster
Attorneys for Grosse Pointe Schools, Defendant Intervenor
3700 Penobscot Building
Detroit, Michigan 48226
962-6485

Dated: March 20, 1972

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
vs.	)	
WILLIAM G. MILLIKEN, et al., Defendants,	)	
DETROIT FEDERATION OF TEACHERS LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor	)	Civil Action No. 35257
and	)	
DENISE MAGDOWSKI, et al., Defendants-Intervenor.	)	

OBJECTIONS OF SOUTHFIELD PUBLIC SCHOOLS TO CONDITIONS ON INTERVENTION

Now comes SOUTHFIELD PUBLIC SCHOOLS, defendant-intervernor herein, by its counsel, CONDIT and McGARRY, P.C., and objects to the Court's conditions on intervention by its Ruling and Order dated March 15, 1972, for the following reasons:

1. Said conditions are an improper limitation upon SOUTHFIELD PUBLIC SCHOOLS which appears in this litigation as a matter of right.

2. Said conditions are unnecessary, particularly, in view of counsel's assurances to the Court as contained in the attached correspondence dated March 8, 1972.

SOUTHFIELD PUBLIC SCHOOLS incorporates in this pleading and adopts by reference the objections heretofore filed on behalf of ALLEN PARK PUBLIC SCHOOLS, et al., and GROSSE POINTE SCHOOLS, defendant-intervenors.

Respectfully submitted,

SOUTHFIELD PUBLIC SCHOOLS

CONDIT and McGARRY, P.C.

By: /s/ _____

RICHARD P. CONDIT
Attorneys for Southfield Public Schools, defendant-intervenor
860 West Long Lake Road
Bloomfield Hills, Michigan 48013
645-5205

Dated: March 22, 1972

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,	)	
Plaintiffs	)	
v.	)	
WILLIAM G. MILLIKEN, et al.,	)	**APPLICATION**
Defendants	)	**FOR LEAVE TO**
DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO,	)	**INTERVENE**
	)	**CIVIL ACTION**
	)	**NO. 35257**
Defendant-Intervenor	)	
and	)	
DENISE MAGDOWSKI, et al.,	)	
Defendants-Intervenor	)	

Comes now the United States of America, Applicant for Intervenor, in this cause, by its attorney, and moves the Court for leave to intervene in the above cause, pursuant to the provisions of Rule 24(a) of the Federal Rules of Civil Procedure and Title IX of the Civil Rights Act of 1964, 42 U.S.C. 2000h-2. The Certificate of the Acting Attorney General, attached hereto and made a part hereof, sets forth the statutory basis for such intervention.

Respectfully submitted,

/s/ _____
DAVID L. NORMAN
Assistant Attorney General

/s/ _____
RALPH GUY
United States Attorney

I, Richard G. Kleindienst, hereby certify that the case of Bradley, et al. v. Milliken, et al., C.A. No. 35257, in the United States District Court for the Eastern District of Michigan is a case of general public importance.

RICHARD G. KLEINDIENST
Acting Attorney General

March 23, 1972

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
-vs-	)	
WILLIAM G. MILLIKEN, et al., Defendants	)	
-and-	)	
DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor	)	CIVIL ACTION NO. 35257
-and-	)	
DENISE MAGDOWSKI, et al., Defendant-Intervenor	)	

PLAINTIFFS' PROPOSED FINDINGS, CONCLUSIONS AND ORDER ON DETROIT – ONLY DESEGREGATION PLANS

On the basis of the entire record in this action, including particularly the evidence heard by the Court from March 14, 1972, through March 21, 1972, the Court now makes the following Supplementary Findings of Fact and Conclusions of Law.

Supplementary Findings of Fact

1. Defendant Detroit Board's desegregation Plan A (D.X. C-10) would not accomplish substantial desegregation, and it is educationally unsound and of doubtful feasibility. (Foster, Tr. 293-297, March 16, 1972)

1.1 Detroit's experience, like that of school systems elsewhere, has been that freedom of choice, student option plans, and controlled transfer have been ineffective as desegregation devices.

(Foster, Tr. 295-296, March 16, 1972; Progress Report, November 1, 1971, p.16; McDonald, Tr. 70-72, March 14, 1972).

1.2 At the high school level, Plan A proposes an enhanced version of the specialized curriculum model which was an almost total failure, as a desegregation plan, during 1971-72. (McDonald, Tr. 57, March 14, 1972; Progress Report, p. 13-16 Foster, Tr. 295, March 16, 1972) No witness for the Detroit Board was able to assure the Court that desegregation at the high school level would be significantly improved under Plan A. (Rankin, Tr. 598, 613, 650-651; McDonald, Tr. 61, 83, 85, 90-91, March 14, 1972; D.X. C-11, pp. 1-2)

1.3 At the magnet middle school level, grades 3 to 8, Plan A could affirmatively affect only 20,000 of the approximately 140,000 students in those grades, and one side-effect has been in 1971-72, and would be, to intensify segregation at other schools. (Rankin, Tr. 608, 612, 615, March 21, 1971; D.X. C-11, p.5; Progress Report, [Appendix, Individual Magnet Middle Schools Transfer Reports])

1.4 The magnet middle schools component of Plan A would set up a limited number of greater resource schools, which would be attended by a higher proportion of the white students in those grades, and would, by virtue of the 50/50 or 60/40 (black/white) racial quota system, assign a higher proportion of black students at those grade levels to lesser resource schools. (McDonald, Tr.98, March 14, 1971; Rankin, Tr. 607, March 21, 1971) Such arrangements were characterized by an expert witness for the plaintiffs as educationally unsound and by an expert witness for the Detroit defendants as unconstitutional. (Foster, Tr. 294, 296, March 16, 1972; Guthrie, Tr. 491, March 17, 1972)

1.5 The cost factors that would be associated with the implementation of Plan A, even as proposed and certainly if it were to be expanded in the hope of increasing its effectiveness, compel the finding that it would be economically less feasible and practicable than plaintiffs' plan of desegregation (PC-2), as amended (McDonald, Tr. 101, March 14, 1972; Foster, Tr. 296, March 16, 1972)

1.6 The practically unanimous expert testimony in this record is to the effect that, educationally, desegregation is especially important in the early grades, and the Court so finds. The Court also finds, as was testified by an expert witness for the defendants, that the omission of grades 1 and 2 from Detroit defendants' Plan A is educationally unsound. So, too, if practicable arrangements can be made, is the omission of kindergarden children. (Rankin, Tr. 648-649, March 21, 1972; Guthrie, Tr. 495, March 17, 1972; Foster, Tr. 333-334, March 16, 1972)

1.7 In several of their submissions to the Court, usually in the context of espousing or commenting upon metropolitan approaches, the defendants have indicated that pupil assignment plans are more effective in accomplishing desegregation than magnet plans. See, for example, defendant Detroit Board's Basic Guidelines for a Metropolitan Detroit Area Integration Plan, February 29, 1972, p. 33; and see State Defendants' submission of February 1, 1972, Metropolitan Magnet Plan. The Court agrees and so finds.

1.8 The Detroit defendants have criticised, upon educational grounds, the omission of kindergarden to grade 3 students from other plans in this record. See Objections of Detroit Board of Education, March 4, 1972, pp. 12-13. This Court finds that criticism also applicable to Detroit's Plan A.

2. The Detroit defendants have also submitted as a plan of desegregation for the Court's consideration a Special Humanities Schools plan (D.X. C-12) referred to in testimony as Plan C. (McDonald, Tr. 49, March 14, 1972) One form of this plan, which would operate only at grades 3 to 6, would affect not more than 40,000 children on a part-time basis (approximately 40 percent, at most, of their school time). Its additional cost would approximate the additional transportation costs roughly projected for plaintiffs' 12-grade desegregation plan. (Compare D.X. C-12, p. 3 with Foster, Tr. 346, March 16, 1972) A variation of this Plan, also limited to grades 3 to 6, would involve partial pairing of elementary schools for humanities programs.

Such programs may be educationally innovative or otherwise attractive, but none of the testimony on behalf of any party supported Plan C as effective to accomplish desegregation. The Defendant Detroit Board preferred Plan A, and, in addition to the part-time desegregation feature, it is undisputed that Plan C would leave the "base" schools no less racially identifiable (80 percent or more black or white, according to D.X. C12; and see Rankin, Tr. 616-618, March 21, 1972) than they are today. In addition, the school pairing variation, by its 50/50 racial quota, would apparently as in the case of magnet middle schools in Plan A, assign a disproportionate number of black pupils to nonspecial schools at grades 3 to 6.

The Court agrees on this question with Detroit Board member McDonald who testified (McDonald, Tr. 50, March 14, 1972): "I don't think that that would accomplish the goal of either integration or desegregation." That was also the testimony of plaintiffs' expert, Dr. Gordon Foster, and the Court so finds. (Foster, Tr. 297-298, March 16, 1972)

3. The Court finds that neither of the defendant Detroit Board's plans, A or C, would accomplish a significant amount of school desegregation in the Detroit district. The Court further finds that both plans are educationally less sound than available alternatives, including metropolitan desegregation, and that Plan A, which is more specifically developed than Plan C, is economically less feasible than available alternatives, including plaintiffs' Plan. (Compare McDonald, Tr. 100, March 14, 1972; with Foster, Tr. 346, March 16, 1972.)

4. Plaintiffs have also submitted to the Court a desegregation plan (PC-2, PC-3), which has been the subject of considerable testimony. (Foster, Tr. 302-348, March 16, 1972)

4.1 Measured by the numbers of black and white Detroit pupils who would attend schools together, it is undisputed that plaintiffs' plan would accomplish more desegregation of the Detroit school system than now obtains or than would be achieved by any other plan proposed. (Rankin, Tr. 594, 596-7, March 21, 1972; McDonald, Tr. 49, March 14, 1972).

4.2 Although the advisability of implementing plaintiffs' plan for September of 1972, if a substantially different plan were to follow shortly thereafter, was challenged, the preponderance of the evidence is clearly to the effect that, assuming the availability of the necessary pupil transportation equipment, it would be administratively feasible to implement plaintiffs' plans for September of 1972. (Foster, Tr. 347-348, March 16, 1972; Guthrie, Tr. 498, March 17, 1972)

4.3 Plaintiffs' expert testified that if a plan must be limited to Detroit, his plan is educationally sound and should be implemented in preference to continuing the present segregation and the Court so finds. (Foster, Tr. 299-301, 312, 348, 350-351, 364-365, 376, 390, 401, March 16, 1972; Cf. Guthrie, Tr. 498-9, March 17, 1972) The Detroit defendants have strongly challenged plaintiffs' plan, but neither they nor any other party has presented to the court assertedly preferable plans that could accomplish equivalent desegregation.

4.4 The defendants' criticism of plaintiffs' plan may be summarized as follows: (a) it fails to upgrade the socioeconomic status (SES) of Detroit schools, which is an important determinant of educational quality; (b) virtually all schools would be majority black, which would accelerate white flight to the suburbs; (c) suburban children, mostly white, will continue to be denied the benefits of school desegregation; (d) racial tensions are most acute among lower SES children, so a desegregation plan limited to such children would result in greater social friction than would a plan involving a higher percentage of higher SES children; and (e) it would be administratively imprudent to implement plaintiffs' plan if a metropolitan desegregation plan, which would involve another round of administrative changes, is to be adopted thereafter. (Rankin, Tr. 572-589, 620-626, March 21, 1972; Guthrie, Tr. 461-474, March 17, 1972)

One of the defendants' experts, Dr. Rankin, agreed that, given the present degree of segregation in Detroit and the correlation between black and lower SES, an intra-Detroit plan would increase somewhat the SES status of schools attended by black

children. That is, there would be a leveling effect, but he also testified that in his opinion the increase would be educationally insignificant. (Rankin, Tr. 620-623, March 21, 1972) Dr. Rankin also testified that SES considerations were not a factor in the preparation of Detroit's own plans, and that the loss of benefits to suburban children would be true of any plan limited to Detroit. (Rankin, Tr. 633-4, March 21, 1972)

The defendants' criticisms of plaintiffs' plan were almost entirely in comparison to a metropolitan plan. Dr. Guthrie did testify that he would hesitate to desegregate a majority black, lower SES district because the educational benefits at least in the achievement sense, would be dubious; but he also testified that he would move to remedy segregation resulting from illegal acts and practices wherever it exists. (Guthrie, Tr. 487, 443-4, 499-500, March 17, 1972)

Dr. Foster testified that the concept used in plaintiffs' plan could well be compatible with a metropolitan plan. (Foster, Tr. 348-350, March 16, 1972) While there would be substantial administrative changes and pupil reassignment should a metropolitan plan of desegregation subsequently be entered, Dr. Foster testified and the Court so finds, that implementation of plaintiffs' plan as an interim plan would provide educational benefits and would be preferable to continuing the present segregation for another year. (Foster, Tr. 348-350, March 16, 1972)

4.5 The defendants' transportation expert testified that new transportation equipment would be available for the fall, 1972 term if ordered in March or April. Plaintiffs' experts testified that such an order should be placed immediately. (Kuthy, Tr. 134, 144, 155, March 15, 1972; Smith, Tr. 420, 439, 442, March 17, 1972; see also Foster, Tr. 383-384, March 16, 1972) On the basis of the present record, the Court finds that the new transportation equipment needed to implement plaintiffs' plan in September of 1972 can be secured.

4.6 Plaintiffs' witness Foster estimated that the annual additional cost to the system for new transportation would be somewhat over 4 million dollars (including amortization for capital expenditures) 2 percent or less of the District's annual

budget, and that the amount would be lower if buses averaged more than two trips (which would be feasible and not uncommon) or if kindergarden children were omitted from his plan. (Foster, Tr. 346, March 16, 1972) Plaintiffs' witness Smith's testimony indicated a lower cost figure based upon his computation which involved more children per bus and fewer new buses. (Smith, Tr. 417, March 17, 1972) The testimony also indicated that, to some extent, the existing facilities of the local public transit company (DSR) could be used and meshed with new school busing, thus reducing at least new capital costs still further. (Smith, Tr. 420-421, March 17, 1972; Foster, Tr. 383, March 16, 1972)

The foregoing testimony was largely uncontroverted, and on the present record, the Court finds it to be factual.

4.7 Taken as a whole, the testimony concerning pupil transportation established that it is a long standing, educationally sound practice and safer than walking to school. (Smith, Tr. 408-409, March 17, 1972; Kuthy, Tr. 140, 156-157, March 15, 1972) There are limits on the times and distance that children at various ages should be transported, but nothing in the record suggests that the additional transportation involved in plaintiffs' plan (or those of the defendants) would approach such limitations, and the Court so finds. (Foster, Tr. 333-334, March 16, 1972) The Court also finds, as testified by defendants' expert Kuthy, that a metropolitan pupil transportation system, including Detroit, would be more economical and administratively more feasible than parallel systems in Detroit and its suburbs. (Kuthy, Tr. 134-136, 181, 184-187, 195-196, March 16, 1972)

4.8 There is a dispute among the parties about the amount of new transportation equipment required to accomplish the desegregation called for in plaintiffs' plan. Basically, the disagreement is a function of whether or not an average of 2 or 3 trips per bus may be routed and accomplished under such plan. (Kuthy, Tr. 122-124, March 16, 1972; Smith, Tr. 417, 430-431, March 17, 1972) The need for new transportation equipment might further vary depending on the degree to which DSR faculties and present routes could be utilized, the staggering of school openings, the acquisition of a yellow bus fleet for the city of Detroit, the joint utilization by Detroit and suburban districts of existing yellow bus equipment, and/or a combination of any of the above.

4.9 Defendants' expert Kuthy testified that it would take five months to design for Detroit a 75,000 pupil transportation plan, and several months thereafter to make it smoothly operational. (Kuthy, Tr. 188-189, March 16, 1972) Plaintiffs' expert Smith estimated six to ten weeks for designing such a plan, with a short period in September to iron out operational details. (Smith, Tr. 418-419, 439-441, March 17, 1972) Based upon the experience of newly desegregating systems elsewhere, Dr. Foster also thought Mr. Kuthy's estimate too long. (Foster, Tr. 347-348, 383- 384, March 16, 1972)

The Court finds that, even by the most pessimistic estimate, it would be practicable to prepare and implement for September a design for the transportation that would be involved in plaintiffs' plan. The Court also finds that, while five months of design time might be desirable, the task could be done effectively in a shorter period.

5. Defendants' expert Dr. Guthrie testified that there is a fairly high correlation between race and SES, i.e. black families are proportionately somewhat more likely to be lower SES, because of wide ranging prior racial discrimination in our society. He testified that school desegregation plans that give appropriate consideration to SES factors are educationally beneficial, in the achievement and associational senses, for all children. He also testified that programs which would infuse large amounts of money and educational resources into racially isolated, lower SES schools would not be educationally productive, in the achievement or associational sense, compared to a sound plan of desegregation. Neither Dr. Foster nor any other witness expressed substantial disagreement with these views. (Guthrie, Tr. , March 17, 1972)

The Court finds that compensatory education alone is inadequate to correct the educational disadvantages of segregated education. The Court further finds that, although it may not be constitutionally required, school authorities may give due regard in formulating a plan of desegregation to factors such as SES, however, consideration of such factors may not be used to delay, impede, limit or frustrate the timing or the degree of actual desegregation.

6. In any pairing, clustering or grouping of schools, grade structures are altered; appropriate, and substantial reassignment of faculty is therefore necessitated. (Rankin, Tr. 586-587, March 21, 1972) Moreover, all experts agreed that simultaneous desegregation of faculty is educationally sound and an important part of any plan of school desegregation. (Foster, Tr. 312, 353, March 1972; Guthrie, Tr. 495-6, March 17, 1972; Rankin, Tr. , March 21, 1972. See also Detroit Board "Basic Guidelines for a Metropolitan Detroit Area Plan, p. 33; Metropolitan School District Reorganization Plan, p. 20; Metropolitan One-way Student Movement and Reassignment Plan, p. 22)

7. The Defendant Detroit Board selected, and submitted to the Court, Plans A and C while rejecting alternative plans which would have achieved a greater degree of actual desegregation. See, e.g., Modified Feeder Plan C, which subsequently was developed in plaintiffs' plan. (PC-2, 3). The default of the Board in submitting plans which previously had failed or were not reasonable calculated to produce meaningful actual desegregation in light of the available alternatives constitutes legal bad faith. (See *Green* v. *New Kent County*, 391 U.S. 430(1968)). The preparation of a plan by plaintiffs was required by the default of the Detroit Board of Education. Expenses incurred by plaintiffs in preparation of such plan were necessitated by that default.

Supplementary Conclusions of Law

1. This court has continuing jurisdiction of this action for all purposes, including the granting of effective relief. Ruling on Issue of Segregation, September 17, 1971; *Raney* v. *Board of Education*, 391 U.S. 443(1968).

2. On the basis of the Court's prior finding of illegal school segregation, the obligation of the defendants is to adopt and implement an educationally sound, practicable plan of desegregation that promises realistically to achieve now and hereafter the greatest possible degree of actual school desegregation. *Green* v. *County School Board*, 391 U.S. 430(1968); *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19(1969); *Carter* v. *West Feliciana Parish School Board*, 396 U.S. 290(1970); *Swann* v.

Charlotte-Mecklenberg Board of Education, 402 U.S. 1(1971); *Davis* v. *Board of School Commissioner*, 402 U.S. 33 (1971).

3. Defendant Detroit Board's Plans A and C are legally insufficient because, compared to existing alternatives, they do not promise to effect significant desegregation. *Green* v. *County School Board*, supra, at 439-440; *U.S.* v. *Jefferson County Board of Education*, 372 F.2d 836, 895-96 (5th Cir. 1966); *U.S.* v. *School District 151*, 301 F.Supp. 201, 232-33(N.D.I11., 1969); *Bivins* v. *Bibb County*, 424 F.2d 97(1970). In Addition, to the extent that plans A and C would maintain extra-resource schools which would be attended, on the basis of race, by a higher proportion of the total white children, while maintaining lesser resource schools which would be attended on the basis of race by a high proportion of the total black children, they are prima facie unconstitutional. *Brown* v. *Bd. of Educ.*, 347 U.S. 483(1954); *Hobson* v. *Hansen*, 269 F.Supp. 401(D.D.C. 1967); *Brunson* v. *Bd. of Trustees*, 429 F.2d 820 (4th Cir. 1970).

4. The omission from the Detroit defendants' plans of kindergarden and grades 1 and 2 is another factor in their legal insufficiency. And as indicated in the Findings of Fact, above, the cost estimates associated with plan A render it less practicable than existing alternatives. *U.S.* v. *School District 151*,301 F.Supp. 201, 233(N.D.I11., 1969); *Price* v. *Denison School District*, 348 F.2d 1010, 1012(5th Cir. 1965).

5. The adoption and implementation of an existing educationally sound practicable plan may not be postponed upon the contingency that something better may turn up. *U.S. v. Baldwin County Board of Education*, 423 F.2d 1013 (5th Cir. 1970); *Bradley v. Richmond School Board*, 325 F. Supp. 828 (E.D. VA. 1970); *U.S. v. Bd. of Trustees*, 424 F. 2d 625, 627 (5th Cir. 1970).

6. Community opposition to school desegregation, manifested by white flight or otherwise, is an impermissible basis for limiting the requirement of desegregation or the effectiveness of plans. *Monroe* v. *Bd. of Commissioners*, 391 U.S. 450, 459(1968); Cooper v. Aaron, 358 U.S. 1, 13 (1958).

7. Factors such as racial tensions and socioeconomic (SES) composition of schools may be relevant to evaluating the educational soundness and practicability of alternative, equally effective desegregation plans. But, the constitutionally required remedy for racial segregation is racial desegregation; and particularly as such factors are the legacy of prior segregation and discrimination, they may not be the basis for limiting the actual effectiveness of desegregation plans. *Swann*, supra, 91 S.Ct. 1267, 1280 Note 8; *Brunson* v. *Bd. of Trustees*, supra; *U.S.* v. *School District 151*, supra, 301 F.Supp. at 231; *Brewer* v. *Norfolk School Board*, 434 F.2d 408, 411 (4th Cir. 1970).

8. Measured by the legally permissible considerations, plaintiffs' plan is the only effective, educationally sound, practicable plan before the Court, and the defendants should, pending further litigation, undertake all necessary steps preparatory to implementing it for September 1972. *Carter* v. *West Feliciana Parish School Bd.*, supra.

9. This Court reaffirms and readopts its prior Conclusions (See Ruling on Issue of Segregation, Sept. 27, 1971)) that the state of Michigan is constitutionally responsible for securing to all its children, including the children of Detroit, equality of educational opportunity free from racial segregation and discrimination. The Court also reaffirms that certain of the state's acts and practices were causal factors in the racial segregation in and of Detroit, inviolation of the Constitution. *Bradley v. Milliken*, 438 F.2d 945(6th Cir. 1971); Ruling on Issue of Segregation.

10. As indicated in the Findings of Fact, above, no Detroit-only plan of desegregation will provide complete and adequate relief for the constitutional violations found in this case. This Court and school authorities including state educational authorities, are obliged to seek and adopt the best available plan. *Swann*, supra; *Green*, supra; *Carter*, supra; *Baldwin County*, supra. Considering the nature of the violation and the powers of this Court, in both the jurisdictional and equitable sense, plans of metropolitan relief must be considered. See *Bradley v. Richmond School Board*_____F. Supp._____(C.A. 3353, decided January 5, 1972,

E.D.V.A.) and cases stated therein. Moreover, the burden of coming forward with a sound, constitutionally adequate plan remains with the defendants.

11. As concluded above (No. 5), timely relief is imperative in this action, and the asserted preferability of metropolitanism is not a basis for continuing school segregation in Detroit. Therefore, unless the metropolitan concept becomes a metropolitan plan for 1972-73, the Constitution requires that plaintiffs' plan, with appropriate final embellishments, be implemented. *Carter*, supra; *Baldwin County*, supra.

12. In making reassignment of faculty nessitated by a system-wide alteration of pupil assignments and grade structures, the defendant Detroit Board and the State have the power and the continuing, present *duty* to insure that such faculty reassignment affirmatively avoids maintaining or creating the racial identification of schools "simply by reference to the racial composition of teachers and staff." *Swann*, 402 U.S. at 18. Moreover, the scope of the Court's equity power is broad and not limited to the precise contours of the violation. *Swann*, 402 U.S. at 15. Therefore, to the extent to which faculty desegregation is essential to the effective implementation of a plan of pupil desegregation, it may be so ordered. *United States* v. *Montgomery County Board of Educ.*, 395 U.S. 225(1969). In either case no contract, union agreement or otherwise, or Board policy or practice may impede Fourteenth Amendment obligations. *United States v. Greenwood Municipal Separate School District*, 406 F.2d 1086, 1094 (5th Cir.), *cert. denied* 395 U.S. 907 (1969); *Berry v. Benton Harbor*, ——— F. Supp. ___(W.D. Mich. 1971).

13. The choice by school authorities of less effective alternatives puts into question the "good faith" of school authorities. *Green* v. *New Kent County* 391 U.S. 430(1968) Where school authorities choose, among alternatives, that alternative whose natural, probable, forseeable, and reasonable effect is to minimize desegregation, such action is intentional within the meaning of the Fourteenth Amendment. Ruling on Issue of Segregation; *Bradley*

v. *Richmond*, slip opinion.

Respectfully submitted,

/s/ _____

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al, Plaintiffs,	)	
vs.	)	
WILLIAM G. MILLIKEN, et al, Defendants,	)	Civil Action
DETROIT FEDERATION OF TEACHERS, LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor,	)	No. 35257
DENISE MAGDOWSKI, et al, Defendants-Intervenor,	)	

OFFER OF PROOF

Now comes SOUTHFIELD PUBLIC SCHOOLS, defendant-intervenor herein, by its counsel, CONDIT and McGARRY, P.C., and pursuant to the court's ruling and order on petitions for intervention (the conditions of which have previously been objected to) and submits the following offer of proof for the court's consideration:

1. It is the basic position of SOUTHFIELD PUBLIC SCHOOLS that the implementation of a metropolitan school desegregation plan is without legal propriety. It is our further position that the implementation of such a plan, no matter how well intentioned, will fail to achieve the educational objectives advocated by its proponents and only result in the devastation of local school districts which are presently imparting quality education to students regardless of race, color or creed.

2. The basic educational premise of those submitting metropolitan desegregation plans to the court is that induced integration of minority students with white sutdents will produce significant academic achievement on the part of the minority students. This position is allegedly founded upon the Coleman and the Racial

Isolation reports. The proponents of the plans have further expressed their opinions relative to other improvements in the quality of education which may be anticipated upon adoption of their proposals.

3. Defendant-intervenor proposes to demonstrate to the court through the testimony of Dr. David J. Armor, Professor of Sociology, Harvard University, that current educational research does not support the claims heretofore made by the proponents of the desegregation plans. Attached hereto is a brief outline of Dr. Armor's proposed testimony. The court will note that Dr. Armor not only analyzes the Coleman and Racial Isolation reports with reference to their proper application but also reports relative to new studies concerning induced integration.

4. The proposed testimony of Dr. Armor not only addresses itself to the question of quality education but also to the ramifications of induced integration as contemplated by the proposed metropolitan plans of desegregation.

It is respectfully submitted that the proposed testimony is highly significant to the subject matter of this litigation and most relevant and material to proper adjudication of the same.

SOUTHFIELD PUBLIC SCHOOLS

CONDIT and McGARRY, P.C.

By /s/

RICHARD P. CONDIT
Attorneys for Southfield Public
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860 West Long Lake Road
Bloomfield Hills, Michigan 48013
645-5205

Dated: April 10, 1972.

I a 239

April 6, 1972

Richard P. Condit
860 West Long Lake Road
Bloomfield Hills, Michigan 48013

Dear Mr. Condit:

I have reviewed the materials you sent describing two plans of desegregation for Detroit; I have paid primary attention to evaluations or statements based upon educational resarch. My own evaluation of the educational components of these two proposals follows:

A. Existing Studies:

1. The Coleman report and the Racial Isolation report of the U. S. Commission on Civil Rights, the only authority cited, are based on *cross-sectional studies* (done at one point in time) and compare the experience of *naturally integrated* black and white students to *naturally segregated* black and white students. As such it is not scientifically valid to make inferences about the effects of induced school integregation.

2. With cross-sectional designs it is impossible to make cause and effect inferences. That is, if naturally integrated black students achieve higher than naturally segregated black students, the reason may be that the families of brighter black students moved to integrated environments in the first place, so that the achievement differences are not a result of integration per se.

3. Even if the achievement differences in the Coleman study were entirely due to the effects of integration, the differences are small. Integrated sixth grade black students are still 1-1/2 standard deviations behind white students in verbal achievement (as reported by Coleman), rather than 2 standard deviations for segregated students as a whole. This represents at best a gain for the average black student from the 2nd percentile to the 7th percentile, where the average white student

is at the 50th percentile. It is likely that most of this small difference is due to socio-economic differences between integrated black students and segregated black students.

B. New Studies.

1. New studies (Riverside, Ann Arbor, White Plains, Rochester, Project Concern in Hartford, and my own soon to be published) are *longitudinal* in nature and compare *induced-integrated* blacks with non-integrated blacks or whites. They have found no conclusive evidence for achievement gains as a result of induced integration.

2. The new studies also show that racial relations may worsen (or at least not improve) as a result of inter-racial contact.

While I am willing to testify about these research findings and interpretations, professional commitments will prevent me from providing any direct testimony until at least May 15th. With regard to material under Section B even this date is contingent upon my publisher's permission to release my report.

Sincerely yours,

David J. Armor
Professor of Sociology
Harvard University

CIVIL SUBPOENA — D.C. Form No. 1 (Rev. 1-68)

United States District Court

FOR THE

EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

CIVIL ACTION FILE NO

Bradley et al vs. Milliken et al | 35257

To CHARLES WELLS, Office of Pupil Personnel Services, Detroit Board of Education

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the Eastern District of Michigan, Southern Division, at 8th Floor, Federal Building, in the city of Detroit, Michigan, on the 11th day of April, 1972, at 9:30 o'clock A.M. to testify on behalf of Allen Park Public Schools, et al in the above entitled action. Bring with you all records for the past two (2) years concerning incidents involving damage to property, safety of pupils or staff (whether perpetrated by other pupils, staff or outsiders), criminal activities, or fires in or on school property as regards each school in the Detroit Public School System.

April 6, 1972

Attorney for Allen Park Public Schools

1841 First National Bldg., Detroit, Mich.

Address

Clerk.

By _____ Deputy Clerk.

RETURN ON SERVICE

Received this subpoena at Detroit, Michigan on April 7, 1972 and on April 10, 1972 at 5057 Woodward Ave., Detroit

I served it on the within-named Charles Wells by delivering a copy to h im and tendering to h im the fee for one day's attendance and the mileage allowed by law.[1]

Dated April 10, 1972.

Robert Harrington

By Robert Harrington

Service Fees

Travel $

Services

Total $

Subscribed and sworn to before me, a Detroit, Michigan this 10th day of April, 1972.

ALEXANDER BARDY, III

Notary Public, Macomb County, Michigan

My Commission Expires February 25, 1974

Note:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

[1] Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al, Plaintiffs,	)	
v.	)	
WILLIAM G. MILLIKEN, et al, Defendants,	)	
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DETROIT FEDERATION OF TEACHERS, LOCAL, 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor,	)	Civil Action No. 35257
and	)	
DENISE MAGDOWSKI, et al, Defendants-Intervenor.	)	
et al	)	

A SURVEY AND EVALUATION OF EXISTING SCHOOL TRANSPORTATION FACILITIES

Upon receipt of the order of the Federal District Court of the above cause, a survey and evaluation of existing transportation facilities was conducted. On April 28, 1972 the responses of 61 school districts regarding their transportation facilities and our evaluations of them were filed with the Federal District Court.

The remaining 25 responses have been received and are attached as exhibits per identifying number.

Thirty buses in the 86 school districts are available to transport pupils on routes extending into other districts. Of the thirty buses fifteen are located in the northern-most school districts of Macomb and Oakland counties. The fifteen buses may have no utility since a school bus in suburban locations does not average a speed of more than three minutes per mile throughout the months

of the school year. The time it would take to transport pupils to Detroit schools may be too great for it to be used in transportation of children to or from Detroit or to and from any point en route to Detroit.

Although these buses are available to transport a passenger load outside the districts which own them, they perform a function which must be accomplished each day before or after the trip outside the district. The time it takes each of these buses to accomplish its one route is somewhat less than an hour and the bus is limited in its utility for extended travel. To illustrate the effect of distance and the time distance consumes in a schedule, we have made a calculation of a situation in which suburban children are transported five miles inside the city of Detroit and Detroit children are transported on the same bus to the suburban school district:

	Royal Oak Bus No. 6		
	Miles	Minutes	Hour
1. Bus starts its suburban route.			6:58
2. Bus completes its pick up of pupils		15	7:13
3. Bus takes same pupils to Detroit	8	24	7:37
4. Passengers are discharged		5	7:42
5. Bus travels 3 miles to pick up Detroit pupils	3	9	7:51
6. Loading time		10	8:01
7. Bus returns to suburban school	8	24	8:25
8. Passengers are discharged and classes begin 8:30 a.m.		5	8:30
9. Classes continue to 3:00 p.m.			3:00
10. Detroit pupils are loaded		10	3:10
11. Bus returns to Detroit	8	24	3:34
12. Bus travels 3 miles to discharge Detroit passengers	3	9	3:43
13. Passengers discharged		5	3:48
14. Suburban passengers loaded		10	3:58
15. Bus returns to its district	8	24	4:22
16. Bus follows its suburban route discharging passengers		15	4:37

In this illustration, Royal Oak pupils are in Detroit 48 minutes before their classes start. They are in Detroit 48 minutes after classes and before their bus starts its return to Royal Oak. They will be away from their homes as much as 9½ hours. Detroit pupils are in Royal Oak for the time of their classes only. They are away from their homes as much as 8 hours.

In the event it is determined that the buses would be used only for one way bussing into Detroit the starting time would be 48 minutes later and the returning time would be 48 minutes earlier and there would be no idle time in Detroit.

The final determination on whether or not the 30 available buses have any utility for use on a route extending into Detroit depends on a decision as to the length of time a pupil may be expected to be away from his home or community school, how early he may be required to board a bus, how late he may be required to be absent from home and community and whether or not cross bussing will be accomplished with a single vehicle.

SUMMARY

The school district buses found available in the 86 districts for routes extending into another district are the following:

Armada:	3 buses
L'Anse Creuse:	2 buses
New Haven:	2 buses
Utica:	4 buses
Royal Oak:	2 buses
Brandon:	2 buses
Rochester:	3 buses
Lamphere:	2 buses
Inkster:	1 bus
Redford Union:	1 bus
Bloomfield Hills:	2 buses
Holly:	1 bus
Taylor:	3 buses
Woodhaven:	2 buses
	30 buses

Transportation Information.

1. Number and rated capacity of vehicles leased, chartered, owned or used in the transportation of school children.
2. Length of routes.
3. Maximum time and distance per route.
4. Number of trips per vehicle.
5. Number of pupils transported.
6. Evaluation of the availability of school buses in each school district.

(62) School District of Anchor Bay

1. Fifteen buses with a total capacity of 990.
2. See survey No. 4.
3. See survey No. 4.
4. See survey No. 4.
5. 2365, see survey No. 4 for number of pupils transported on each route.
6. All buses are used on two to four routes and none are available for routes extending into other districts.

(63) School District of Lake Shore

1. No school buses, see survey No. 10.
2. None
3. None
4. None
5. None
6. No buses are available

(64) School District of Lakeview

1. Four buses with a total capacity of 258.
2. See survey No. 11.
3. See survey No. 11.
4. See survey No. 11.
5. 561, see survey No. 11 for number of pupils transported on each route.
6. All buses are used on two to four routes and none are available for routes extending into other districts.

(65) School District of Pontiac

1. Seventy-five buses with a total capacity of 4938.
2. See survey No. 24.
3. See survey No. 24.
4. See survey No. 24.
5. 9583, see survey No. 24 for number of pupils transported on each route.
6. All buses are used for an hour or more and are not available for routes extending into other districts.

(66) School District of Southfield

1. 52 buses with a total capacity of 3289.
2. See survey No. 27.
3. See survey No. 27.
4. See survey No. 27.
5. 9587, see survey No. 27 for number of pupils transported on each route.
6. All buses are used on two to five routes daily and are not available for routes extending into other districts.

(67) School District of Bloomfield Hills

1. Forty-six buses with a total capacity of 3141.
2. See survey No. 29.
3. See survey No. 29.
4. See survey No. 29.
5. 6881, see survey No. 29 for number of pupils transported on each route.
6. Bus No. 51 and No. 60 are available for routes extending into other districts. All other buses are used on two to four routes daily and are not available.

(68) School District of Clarenceville

1. Nine buses with a total capacity of 594.
2. See survey No. 30.

3. See survey No. 30.
4. See survey No. 30.
5. 1949, see survey No. 30 for number of pupils transported on each route.
6. All buses are used on two to four routes daily and are not available for routes extending into other districts.

(69) School District of Novi

1. Eight buses with a total capacity of 528.
2. See survey No. 31.
3. See survey No. 31.
4. See survey No. 31.
5. 1490, see survey No. 31 for number of pupils transported on each route.
6. All buses are used on two to three routes daily and are not available for routes extending into other districts.

(70) School District of Oxford

1. Eighteen buses with a total capacity of 1188.
2. See survey No. 32.
3. See survey No. 32.
4. See survey No. 32.
5. 2292, see survey No. 32 for number of pupils transported on each route.
6. All buses are used on two or more routes daily and are not available for routes extending into other districts.

(71) School District of Madison Heights

1. No school buses, see survey No. 34.
2. None
3. None
4. None
5. None
6. No buses are available.

(72) School District of Holly

1. Twenty-seven buses with a total capacity of 1782.
2. See survey No. 40.
3. See survey No. 40.
4. See survey No. 40.
5. 2681, see survey No. 40 for number of pupils transported on each route.
6. Bus No. 21 is available for a route extending into another district. All others are used for more than an hour and are not available.

(73) School District of South Lyon

1. Nineteen buses with a total capacity of 1254.
2. See survey No. 43.
3. See survey No. 43.
4. See survey No. 43.
5. 2737, see survey No. 43 for number of pupils transported on each route.
6. All buses are used on two to four routes daily and are not available for routes extending into other districts.

(74) School District of Oak Park

1. Nine buses with a total capacity of 552.
2. See survey No. 44.
3. See survey No. 44.
4. See survey No. 44.
5. 915, see survey No. 44 for number of pupils transported on each route.
6. All buses are used on two to four routes daily and are not available for routes extending into other districts.

(75) School District of Clawson

1. No school buses, see survey No. 46.
2. None
3. None
4. None

5. None
6. No buses are available.

(76) School District of Allen Park

1. No school buses, see survey No. 51.
2. None
3. None
4. None
5. None
6. No buses are available.

(77) School District of Dearborn City

1. No school buses, see survey No. 53.
2. None
3. None
4. None
5. None
6. No buses are available.

(78) School District of Hamtramck

1. No school buses, see survey No. 58.
2. None
3. None
4. None
5. None
6. No buses are available.

(79) School District of Highland Park

1. No school buses, see survey No. 59
2. None
3. None
4. None
5. None
6. No buses are available.

(80) School District of South Redford

1. Nineteen buses with a total capacity of 1254.
2. See survey No. 67.
3. See survey No. 67.
4. See survey No. 67.
5. 3751, see survey No. 67 for number of pupils transported on each route.
6. All buses are used on three to five routes daily and are not available for routes extending into other districts.

(81) School District of Taylor

1. Fifty-six buses with a total capacity of 3574.
2. See survey No. 68.
3. See survey No. 68.
4. See survey No. 68.
5. 13,297, see survey No. 68 for number of pupils transported on each route.
6. Bus No. 11, No. 60, and No. 65 are available for trips extending into other districts. All others travel from two to seven buss routes daily and are not available.

(82) School District of Crestwood

1. Eight buses with a total capacity of 498.
2. See survey No. 75.
3. See survey No. 75.
4. See survey No. 75.
5. 1521, see survey No. 75 for number of pupils transported on each route.
6. All buses travel on two to four routes daily and are not available for routes extending into other districts.

(83) School District of Grosse Isle

1. Nineteen buses with a total capacity of 1254.
2. See survey No. 79.
3. See survey No. 79.
4. See survey No. 79.

5. 2353, see survey No. 79 for number of pupils transported on each route.
6. All buses travel on two to three routes daily and are not available for routes extending into other districts.

(84) School District of Huron

1. Twenty buses with a total capacity of 1320.
2. See survey No. 81.
3. See survey No. 81.
4. See survey No. 81.
5. 2293, see survey No. 81 for number of pupils transported on each route.
6. All buses travel on two to three routes daily and are not available for routes extending into other districts.

(85) School District of Woodhaven

1. Fifteen buses with a total capacity of 984.
2. See survey No. 82.
3. See survey No. 82.
4. See survey No. 82.
5. 1933, see survey No. 82 for number of pupils transported on each route.
6. Bus No. 17 and No. 71B are available for routes extending into other districts. All other buses travel on two to five routes daily and are not available.

(86) School District of Riverview

1. Six buses with a total capacity of 402.
2. See survey No. 84.
3. See survey No. 84.
4. See survey No. 84.
5. 1596, see survey No. 84 for number of pupils transported on each route.
6. All buses travel on four to five routes daily and are not available for routes extending into other districts.

This Survey and Evaluation of Existing School Transportation Facilities was prepared by,

/s/_____

Harold B. Wagner, Supervisor
School Transportation Section
Division of School Management Services
Michigan Department of Education

at the direction of,

John W. Porter
Superintendent of Public Instruction

SM-2253

Dept. of Management
SCHOOL MANAGEMENT SERVICES
Box 420 Lansing Michigan 48902

SURVEY OF MORNING BUS ROUTE FOR REGULAR PUPILS

4-4011

EDUCATIONAL AGENCY	Legal Name of School District	District Code No.	Telephone – Area Code Local No.
	LAKEVIEW PUBLIC SCHOOLS	50-130-4-8-12	(313) 771-0200
	Address: 25901 E. Jefferson	City: St. Clair Shores, MI	Zip Code: 48081

MAILING INSTRUCTIONS Return TWO copies by APRIL 26, 1972 to Mr. Harold Wagner, at the STATE address indicated above. Retain ONE copy for your files.

I MORNING BUS ROUTES FOR REGULAR PUPILS

BUS NUMBER AND MANUFACTURER'S RATED SEATING CAPACITY	NUMBER OF ROUTES	MILES DRIVEN PER ROUTE	TRAVEL TIME PER ROUTE (In Minutes)	HOW FAR FROM SCHOOL TO THE MOST DISTANT PUPIL? (In Miles)	NUMBER OF PUPILS TRANSPORTED PER ROUTE	IS THIS BUS AVAILABLE FOR OTHER BUS ROUTES? Yes	No
	(a.)		(c.)	(d.)	(e.)	(f.)	(g.)
a. Bus No. 1 b. Manufacturer's Rated Seating Capacity 66	1	3.0	15	1.5	66		
	2	3.0	20	2.0	35	☐	☒
	3	5.3	26	1.5	66		
	4	5.0	30	3.0	20		
	5						
a. Bus No. 3 b. Manufacturer's Rated Seating Capacity 60	1	3.0	15	1.5	60		
	2	6.0	30	3.0	32	☐	☒
	3						
	4						
	5						
a. Bus No. 4 b. Manufacturer's Rated Seating Capacity 66	1	2.0	15	1.5	66		
	2	4.3	17	2.5	18		
	3	3.0	18	2.0	66	☐	☒
	4						
	5						
a. Bus No. 5 b. Manufacturer's Rated Seating Capacity 66	1	3.0	15	1.5	66		
	2	5.5	25	2.0	66		
	3					☐	☒
	4						
	5						
a. Bus No. _____ b. Manufacturer's Rated Seating Capacity _____	1						
	2						
	3					☐	☐
	4						
	5						
a. Bus No. _____ b. Manufacturer's Rated Seating Capacity _____	1						
	2						
	3					☐	☐
	4						
	5						
a. Bus No. _____ b. Manufacturer's Rated Seating Capacity _____	1						
	2						
	3					☐	☐
	4						
	5						

II CERTIFICATION

I certify that the information submitted on this report is true and correct to the best of my knowledge.

Date 4-25-72 Superintendent or Authorized Official C. L. Klingman (Signature)

Contact Person Dr. Paul Voskuil, Asst. Supt. - Bus. Telephone 313-771-0200
Area Code Local No.

SAMPLE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al, Plaintiffs	)	
v.	)	
WILLIAM G. MILLIKEN, et al, Defendants,	)	Civil Action
DETROIT FEDERATION OF TEACHERS LOCAL NO. 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor	)	No. 35257
and	)	
DENISE MAGDOWSKI, et al, Defendants-Intervenor	)	

AFFIDAVIT OF DEFENDANT–INTERVENOR GROSSE POINTE SCHOOLS RE: SCHOOL DISTRICT BOUNDARY LINES AND TRANSPORTATION FACILITIES

STATE OF MICHIGAN)
) SS
COUNTY OF WAYNE)

The undersigned, THEOS I. ANDERSON, PH.D., being first duly sworn, deposes and says as follows:

1. That he is currently the Superintendent of Schools of The Grosse Pointe Public School System, Wayne County, Michigan, having been appointed to such capacity on July 1, 1967.

2. That upon his information, knowledge and belief, based partly upon a review of the historical records of the School System, the following constitutes a summary of the establishment of The Grosse Pointe Public School System.

The boundaries of The Grosse Pointe Public School System were established on December 23, 1921 as the "Rural Agricultural School District No. 1, Grosse Pointe Township," Wayne County, Michigan, by consolidation of five previously existing smaller school districts. The consolidation was ordered and approved by the affirmative vote of the electorate of all of the five constituent school districts in existence as of that date.

The Grosse Pointe Public School System presently encompasses the entire geographical area of the City of Grosse Pointe Park, the City of Grosse Pointe, the City of Grosse Pointe Farms, the Village of Grosse Pointe Shores and the City of Grosse Pointe Woods. The School District also encompasses a portion of the City of Harper Woods.

The smaller school districts which composed the newly-formed Rural Agricultural School District No. 1, Grosse Pointe Township, were originally drawn along township lines and/or naturally existing boundaries, and were not drawn, nor did consolidation of same occur in any respect, with a view to or for the purpose of causing, fostering or maintaining racial segregation.

By vote of the electorate of the newly-formed School District, subsequent to the establishment of the School District boundaries in 1921, the name of the School District was changed to The Grosse Pointe Public School System, Wayne County, Michigan, and in pursuance of the statutes of the State of Michigan, has been designated as a third class school district. The boundary lines of the School District have not changed, however, since their establishment in 1921, with the exception of a small portion of the School District known as the Hanstein portion which became a portion of the School District of the City of Detroit by reason of the annexation of that geographical portion by the City of Detroit, in March, 1926.

At the time of the establishment of the Grosse Pointe School District in 1921, the total children attending the School District was 947. The total children attending the School District as of the fourth Friday following the commencement of school in 1971, was 13,529.

There are presently ten elementary schools, three middle schools and two high schools being occupied by students of the School District, all of which school buildings were constructed subsequent to the formation of the School District in 1929 and none of said school buildings, or additions thereto, were located or constructed in any respect, with a view to or for the purpose of causing, fostering or maintaining racial segregation.

3. That upon the information, knowledge and belief of the undersigned, the following represents an accurate statement of the transportation facilities owned, chartered or being used by The Grosse Pointe Public School System during the 1971-72 school year.

Because of population density within The Grosse Pointe Public School System and the policy of assignment of students to neighborhood schools nearest their home, the degree of transportation of students within The Grosse Pointe Public School System is very limited.

There are no student transportation facilities whatsoever owned by The Grosse Pointe Public School System. Because of the necessity of transporting certain special education students to their respective schools, however, the school system has contracted through outside private agencies to provide transportation for such special education students, including specifically:

Trainable mentally retarded

Developmental kindergarten

Adjusted study program

Developmental primary

Adjusted learning

Physically handicapped

Such students are picked up at their home, transported to the educational center where they receive their instruction and returned to their home at the close of the day. As of the date of this Affidavit, The Grosse Pointe Public School System is

transporting 115 such special education students.

The transportation costs for these students for the 1971-72 school year, on an estimated basis, are as follows:

East Side Cab:	400 miles per day 8 "bus vans" – (capacity 15 to 18 students) 8 drivers	$324.50 per day
Checker Cab to Leland School – two ways (for one child)		3.40 per day
	Total	$327.90 per day
Cost per student		$ 2.85 per day
Cost per school year (180 days x $327.90) estimate		$59,202.00
Estimated State Reimbursement (115 students x $200.00)		$23,000.00
Net cost of School District		$36,202.00

In addition to the transportation facilities provided for the special education students, approximately 1,200 students attending The Grosse Pointe Public School System utilize the public transportation facilities provided by the Southeastern Michigan Transportation Association (SEMTA). These students voluntarily utilize these facilities and pay a fare of 30 cents each way during the hours between 7 A.M. and 5 P.M. Regular fare during this period for other members of the public is 40 cents to 70 cents each way, depending on the particular bus zone involved.

SEMTA has provided special bus routings during school hours to provide convenient service for the students and as of the date of this Affidavit, there are 28 special bus routings, using 16 coaches that carry 45 to 51 passengers.

Further Deponent sayeth not.

/s/
Theos I. Anderson, Ph.D.
Superintendent of Schools
The Grosse Pointe Public School System
Wayne County, Michigan

Subscribed and Sworn to before me
this 4th day of May, 1972

/s/
Lora Smith, Notary Public, Wayne County, Mich.

My Commission Expires August 11, 1972

HILL, LEWIS, ADAMS, GOODRICH & TAIT

By /s/
Douglas H. West
Attorneys for Defendant-Intervenor,
Grosse Pointe Schools
3700 Penobscot Building
Detroit, Michigan 48226
962-6485

Dated: May 4, 1972

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs, -vs- WILLIAM G. MILLIKEN, et al., Defendants, and DETROIT FEDERATION OF TEACHERS, LOCAL 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor, and DENISE MAGDOWSKI, et al., Defendants-Intervenor.	Civil Action No. 35257 Order modifying order for development of plan of desegregation, to add additional panel members

At a session of said Court held in the Federal Building, in the City of Detroit, Michigan on June 30, 1972.

PRESENT: HONORABLE STEPHEN J. ROTH, U.S. DISTRICT JUDGE.

This matter having come on to be heard upon Motion, dated June 16, 1972, by defendant-intervenor, Detroit Federation of Teachers, to Modify Order for Development of Plan of Desegregation, and the Court having heard arguments thereon, and being fully advised in the premises, now, therefore,

IT IS ORDERED that said motion be and the same is hereby GRANTED, as follows:

Paragraph I-A, only of this Court's Order for Development of Plan of Desegregation, dated June 14, 1972, is amended to add as members of the panel therein named: 10. Mary Ellen Riordan, President, Detroit Federation of Teachers; and 11. A designee of the Michigan Education Association (MEA), whose identity shall

be communicated to the Court on or before July 6, 1972.

STEPHEN J. ROTH
U.S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs	)	
v.	)	
WILLIAM G. MILLIKEN, et al., Defendants	)	
and	)	
DETROIT FEDERATION OF TEACHERS, LOCAL 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor	)	CIVIL ACTION NO: 35257
and	)	
DENISE MAGDOWSKI, et al., Defendants-Intervenor	)	
et al.	)	

RECOMMENDATIONS OF DESEGREGATION PANEL REGARDING ADDITIONAL TRANSPORTATION EQUIPMENT NEEDED FOR THE IMPLEMENTATION OF AN INTERIM DESEGREGATION PLAN

Pursuant to the rulings of the court, the desegregation panel has met for the purpose, *inter alia,* of developing a plan for the transportation of pupils in the desegregation area. It is the conclusion of the panel that an interim plan, to be effective in September, 1972, will require transportation equipment in addition to that equipment which is currently available in the desegregation area. Accordingly, the panel does hereby recommend the use of state funds for the immediate purchase of at least 295 additional vehicles to be used in implementation of the interim plan.* The panel further recommends that all newly purchased vehicles meet minimum Michigan standards as required by the State Board of Education.

In addition, it is the recommendation of the panel that the court authorize rental, leasing, or other contractual arrangements for whatever additional transportation equipment may be needed to implement an interim plan more expansive than that plan which is now being developed by the panel on the basis of the use of the newly purchased equipment recommended above.

It is the further recommendations of the panel that the court authorize the panel to include in its final desegregation plan recommendations as to any other solutions to the issue of transportation, including, but not limited to, recommendations regarding the purchase, rental, lease, or other usage of additional transportation equipment, housing of transportation equipment, maintenance of transportation equipment, etc., as may be necessary to further implement plans to be effective in February, 1973, September, 1973, and thereafter.

*It is the opinion of the panel after extensive investigation that, as of June 27, 1972, not more than 295 new vehicles are available for purchase and September, 1972 delivery. The panel, therefore, is developing an interim plan consistent with such constraint.

Respectfully submitted by the panel, as listed below in alphabetical order, this fifth day of July, 1972.

/s/ William Emerson
/s/ Freeman Flynn
/s/ Gordon Foster
/s/ Merle Hendrickson
/s/ Melvin Leasure
/s/ Aubrey McCutcheon, Jr.
/s/ Richard Morshead
/s/ William Pierce
/s/ Mary Ellen Riordan
/s/ Rita Scott
/s/ Harold Wagner

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al, Plaintiffs, v. WILLIAM G. MILLIKEN, et al, Defendants, and DETROIT FEDERATION OF TEACHERS, LOCAL 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Defendant-Intervenor, and DENISE MAGDOWSKI, et al, Defendants-Intervenor, et al.	)	Civil Action No. 35257

ORDER
ADDING DEFENDANT ALLISON GREEN

At a session of the United States District Court, Federal Building, Detroit, Michigan, on the 11th day of July, 1972.

The Court having determined that transportation capacity must be ordered by the Defendant Detroit Board of Education and paid for by the State Defendants, and it being brought to the Court's attention that the State Treasurer, upon warrants of the State Superintendent of Education, is responsible for issuing his warrant for payment of obligations of Defendant, the adding of Allison Green, Treasurer of the State of Michigan, is necessary in order to grant full relief to the parties.

WHEREFORE, the Court, on its own motion, pursuant to Rules 19 and 21 of the Federal Rules of Civil Procedure, hereby ORDERS that Allison Green, Treasurer of the State of Michigan, be made a party Defendant in this action. Copies of this Order will

be served forthwith on the Defendant Green by the United States Marshall.

United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,	)	
Plaintiffs	)	
v.	)	
WILLIAM G. MILLIKEN, et al.,	)	
Defendants	)	
DETROIT FEDERATION OF TEACHERS	)	**CIVIL ACTION**
LOCAL NO. 231, AMERICAN FEDERA-	)	**NO. 35257**
TION OF TEACHERS, AFL-CIO,	)	
Defendant-	)	
Intervenor	)	
and	)	
DENISE MAGDOWSKI, et al.,	)	
Defendants-	)	
Intervenor	)	
et al.	)	

ORDER

At a session of said court held in the Federal Building, City of Flint, County of Genesee, on this 19th day of JULY, A.D. 1972.

HONORABLE STEPHEN J. ROTH
United States District Judge

This court having heard oral motions on July 19, 1972, for entry of judgments in accordance with the provisions of Fed. R. Civ. P. 54(b) and for certification under the provisions of 28 U.S.C. 1292(b) in connection with certain orders and rulings of the court heretofore entered; the court determines for the purpose of appeal, and subject to this court's statements at the hearing on July 19, 1972, that there is no just reason for delay and that each of the following orders:

1. Ruling on Issue of Segregation, September 27, 1971;

2. Ruling on Propriety of Considering a Metropolitan Remedy to Accomplish Desegregation of the Public Schools of the City of Detroit, March 24, 1972;

3. Findings of Fact and Conclusions of Law on Detroit–only Plans of Desegregation, March 28, 1972;

4. Ruling on Desegregation Area and Development of Plan, and Findings of Fact and Conclusions of Law in Support thereof, June 14, 1972; and

5. Order for Acquisition of Transportation, July 11, 1972 shall be deemed final orders under Rule 54(b) of the Federal Rules of Civil Procedure and the court certifies the issues presented therein under the provisions of 28 U.S.C. 1292(b).

/s/ Stephen J. Roth
UNITED STATES DISTRICT JUDGE

DATE: July 20, 1972
TIME: 8:30 a.m.

RECOMMENDATIONS REGARDING THE FINANCIAL, ADMINISTRATIVE, AND GOVERNMENTAL, AND CONTRACTUAL ARRANGEMENTS FOR OPERATING THE PUBLIC SCHOOLS IN THE DESEGREGATION AREA DURING THE PERIOD OF INTERIM DESEGREGATION

A Report to the Honorable Stephen J. Roth,
U. S. District Court, Eastern District of Michigan,
Southern Division, in Response to Court
Order Dated June 14, 1972

by
John W. Porter,
Superintendent of Public Instruction
Lansing, Michigan
July 28, 1972

PART V

RECOMMENDATIONS

The June 14, 1972 order of the federal court states "the State Superintendent of Public Instruction, with the assistance of the other state defendants, shall examine, and make recommendations, consistent with the principles established above [i.e., in Part II of the order], . . . for the (1) financial, (2) administrative and school governance, and (3) contractual arrangements . . . including personnel policies [and] procedures . . . ."

1. In accordance with the above order and the examination of the issues contained in this document, it is recommended that no substantial alteration in the financial, administration and governance, and contractual arrangements of the existing 53 local districts that presently describe the school districts in the desegregation area take place during the interim period.

2. In accordance with the above order and the examination of the issues contained in this document, it is recommended that on or before a date 15 days prior to the implementation of interim desegregation the Court order those districts to be desegregated during the interim period to effectuate memoranda of agreement, similar to the draft memorandum of agreement contained in Appendix B, including consideration of the provisions contained in Appendix C, in order to effect those alterations necessary in existing financial, administration and governance, and contractual agreements. The Court should specify that the districts may modify the memorandum of agreement at such time and in such manner during the interim period as may be necessary to effectuate interim desegregation as adopted by the Court.

3. In accordance with the above order and the examination of the issues contained in this document, it is recommended that, for those districts chosen by the Court to be desegregated during the interim period, and which require additional monies to maintain the 1971-72 level of operation, a system be established whereby their financial needs can be reviewed by the Municipal Finance Commission, Michigan Department of Treasury. To effectuate this recommendation would require the Court to consider ordering the levy of additional millage in the instance that a legislative grant, loan, or fund transfer does not prove viable, or local voter support is not obtained.

4. In accordance with the above order and the examination of the issues contained in this document, it is recommended that there be no interim attempt to fully equalize school facilities or finances during the interim desegregation period in order to achieve schools of substantially like quality, but that other services be equalized to the extent possible through cooperative arrangements and memoranda of agreement.

5. In accordance with the above order and the examination of the issues contained in this document, it is recommended that those school systems involved in interim desegregation adopt a common school calendar to ensure compatible vacations, in-service training, professional development days and 180 days and 900 hours of student instruction for the interim desegregated pupils.

6. In accordance with the above order and the examination of the issues contained in this document, it is recommended that there be established advisory cluster councils of education consisting of four representatives appointed by the outlying local boards of education of districts within the interim desegregated clusters and three representatives

appointed by Detroit Board of Education for those interim desegregated attendance areas within Detroit.

APPENDIX A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,

Plaintiffs

v.

WILLIAM G. MILLIKEN, et al.,

Defendants

and

DETROIT FEDERATION OF TEACHERS, LOCAL 231, AMERICAN FEDERATION OF TEACHERS, AFL-CIO,

Defendant-Intervenor

and

DENISE MAGDONSKI, et al.,

Defendants-Intervenor

et al.

CIVIL ACTION NO: 35257

RECOMMENDATIONS OF DESEGREGATION PANEL

REGARDING CLUSTER RECONSTITUTION

The Court in its ruling and order in this matter, inter alia, authorized the Panel to "recommend reorganization of clusters within the desegregation area in order to minimize administrative inconvenience, or time, and/or numbers of pupils requiring transportation".

The Panel in carrying out its assignment to develop a pupil assignment plan, has reviewed the clusters described in Exhibit P.M. 12 and has concluded that the 14 clusters should be increased to 16 and that certain school districts sh

be realigned in the cluster arrangement. These changes are recommended in order to: (1) attain a racial composition as close as possible to the racial composition of the desegregation area as a whole; (2) provide minimum travel time for all students; and (3) reduce clusters to the smallest size without splitting high school constellations or suburban districts.

Attached is a revised cluster map dated 10 July 1972 and a description of the student population of the revised clusters as recommended by the Panel. An alphabetic identification system is used to distinguish the revised clusters from plaintiff's plan.

In the opinion of the Panel, recommended revisions offer the following specific advantages: (1) the range of percentage of black students is reduced (11 of the 16 clusters fall between 23-28% black, or within 10% of the median for the area as a whole), (2) the range in cluster size is reduced, and (3) for some clusters routing and distances are decidedly improved.

Those clusters most significantly improved are:

Cooley to Livonia rather than Farmington

Murray to Melvindale and Lincoln Park rather than Birmingham, Royal Oak and Hazel Park

Northern to Ferndale, Berkley and Royal Oak rather than Lincoln Park, Allen Park and Southgate.

The clustering is improved by separation of Kettering from Denby and Finney and by keeping the Cooley constellation intact.

Both Kettering and Finney have significant numbers of black students sufficient to function as bases for independent clusters. When combined they have 25,000 black students, necessitating a cluster total in excess of 90,000. The revised plan permits division of these schools into two clusters.

Cooley and Redford together have 16,000 black students, but when clustered with Livonia, which is the second largest school system in the desegregation area, a racial composition of 22.6 percent results.

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Respectfully submitted by the Panel, as listed below in alphabetical order, this twelfth day of July, 1972.

William Emerson

Freeman Flynn

Gordon Foster

Merle Henrickson

Melvin Leasure

Aubrey McCutcheon, Jr.

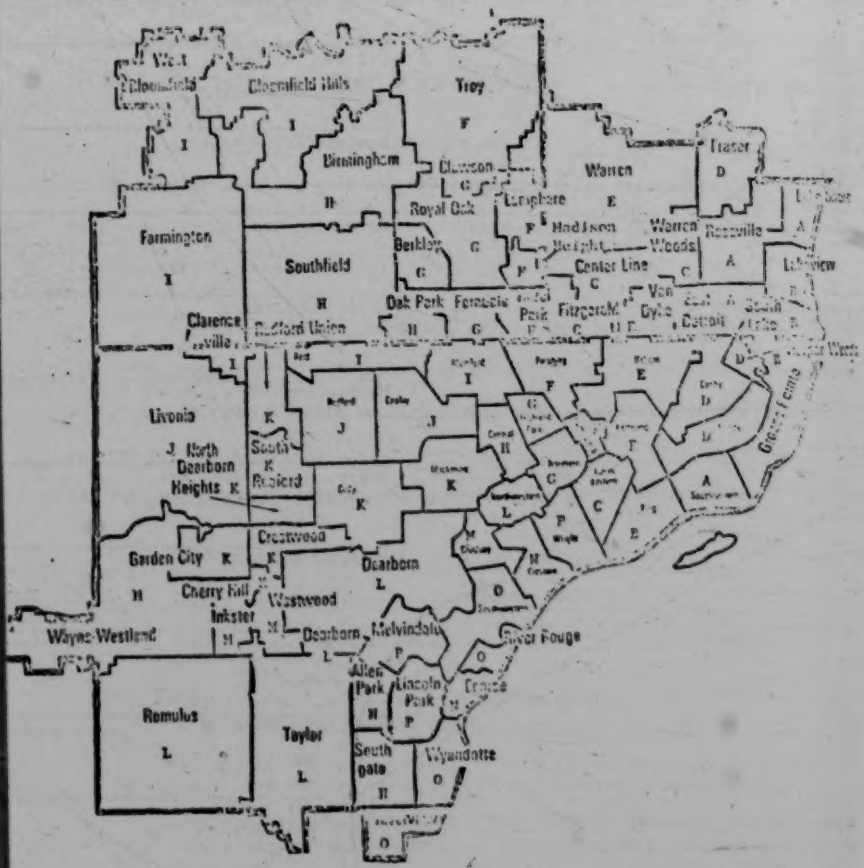
Richard Morshead

William Pierce

Mary Ellen Riordan

Rita Scott

Harold Wagner


Troy
Birmingham
Clawson
Royal Oak
Berkley
Southfield
Farmington
Oak Park
Ferndale
Madison Heights
Warren
Center Line
Fraser
Roseville
Clarence
Livonia
North Dearborn Heights
South Redford
Garden City
Cherry Hill
Westwood
Inkster
Dearborn
Dearborn Heights
Melvindale
River Rouge
Wayne-Westland
Allen Park
Lincoln Park
Ecorse
Romulus
Taylor
Southgate
Wyandotte
Grosse Pointe

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Panel Recommendation for Revised Clustering Plan

		Total Enrollment	Black Enrollment	Black Percent
a.	Lake Shore	9,621	48	.5
	Roseville	14,734	213	1.4
	East Detroit	12,831	6	.1
	Southeastern	15,418	12,708	82.4
		52,604	12,975	24.7
b.	South Lake	5,306	0	.0
	Grosse Pointe	13,323	1	.0
	Lakeview	7,751	0	.0
	King	9,802	9,496	96.9
		36,182	9,497	26.2
c.	Centerline	6,865	3	.0
	Fitzgerald	5,371	0	.0
	Warren Woods	8,956	0	.0
	Northeastern	10,286	9,130	88.8
		31,483	9,133	29.0
d.	Fraser	7,304	1	.0
	Harper Woods	1,981	0	.0
	Denby	10,906	560	5.1
	Finney	15,093	8,549	56.6
		35,284	9,110	25.8
e.	Van Dyke	7,192	2	.0
	Warren	29,995	52	.2
	Osborn	11,962	2,730	22.8
	Kettering	17,966	16,749	93.2
		67,115	19,533	29.1
f.	Hazel Park	7,935	0	.0
	Hamtramck	3,043	905	29.7
	Livonia	5,833	0	.0
	Madison Heights	4,708	2	.0
	Troy	5,953	0	.0
	Pershing	14,670	10,009	68.2
		42,242	10,915	25.8

Panel Recommendation for Revised Clustering Plan

		Total Enrollment	Black Enrollment	Black Percent
g.	Ferndale	8,376	799	9.5
	Berkley	8,404	8	.1
	Highland Park	7,837	6,158	78.6
	Royal Oak	19,267	3	.0
	Clawson	4,996	0	.0
	Northern	8,929	8,877	99.4
		57,809	15,845	27.4
h.	Birmingham	17,520	5	.0
	Oak Park	5,857	590	10.1
	Southfield	16,345	5	.0
	Central	12,757	12,702	99.7
		52,479	13,302	25.3
i.	Bloomfield Hills	9,438	35	.4
	Farmington	16,339	9	.1
	Clarenceville	3,918	0	.0
	West Bloomfield	4,772	0	.0
	Ford	10,705	3,314	31.0
	Mumford	12,115	11,540	95.3
		57,287	14,898	26.0
j.	Livonia	38,105	8	.0
	Cooley	19,200	15,771	82.1
	Redford	15,534	683	4.4
		72,839	16,462	22.6
k.	Garden City	13,853	0	.0
	South Redford	7,883	0	.0
	N. Dearborn Heights	2,765	0	.0
	Crestwood	5,282	0	.0
	Cherry Hill	5,127	15	.3
	Redford Union	9,677	2	.0
	Cody	16,056	2,425	15.1
	Mackenzie	20,745	20,192	97.3
		81,388	22,617	27.8

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Panel Recommendation for Revised Clustering Plan

		Total Enrollment	Black Enrollment	Black Percent
l.	Taylor	20,004	303	1.5
	Dearborn	21,634	2	.0
	Dearborn Heights	5,626	0	.0
	Fairlane	1,188	0	.0
	Romulus	5,450	961	17.6
	Northwestern	14,308	14,265	99.7
		68,210	15,531	22.8
m.	Inkster	4,624	3,962	85.7
	Wayne	22,514	21	.1
	Westwood	5,120	1,842	36.0
	Chadsey	5,975	2,053	34.4
		38,233	7,878	20.6
n.	Ecorse	4,341	2,268	52.2
	Allen Park	6,522	5	.1
	Southgate	5,613	0	.0
	Western	11,314	4,964	43.9
		27,790	7,237	26.0
o.	River Rouge	3,858	1,723	44.7
	Riverview	3,665	0	.0
	Wyandotte	8,403	0	.0
	Southwestern	11,028	4,826	43.9
		26,954	6,559	24.3
p.	Lincoln Park	12,217	6	.0
	Melvindale	5,574	0	.0
	Murray	8,268	6,359	76.9
		26,059	6,365	24.4

July 10, 1972

RECOMMENDATIONS REGARDING THE FINANCIAL, ADMINISTRATIVE AND GOVERNMENTAL, AND CONTRACTUAL ARRANGEMENTS FOR OPERATING THE PUBLIC SCHOOLS IN THE DESEGREGATION AREA DURING THE PERIOD OF FINAL DESEGREGATION

A Report to the Honorable Stephen J. Roth,

U. S. District Court, Eastern District of Michigan,

Southern Division, in Response to Court

Order Dated June 14, 1972

By
John W. Porter
Superintendent of Public Instruction
Lansing, Michigan
July 29, 1972

PART VI

RECOMMENDATIONS FOR FINANCE, GOVERNANCE, AND PERSONNEL ARRANGEMENTS

Consistent with the background discussion in Part II of this report, it is recommended that the Court consider the outcome of interim desegregation arrangements before effectuating any of the following recommendations except as the recommendations are judged appropriate and essential, as written, regardless of the outcome of interim desegregation arrangements.

The June 14, 1972 order of the federal court states "the State Superintendent of Public Instruction, with the assistance of the other state defendants, shall examine, and make final recommendations, consistent with the principles established (i.e., in Part II of the order), for (1) financial, (2) administration and school governance, and (3) contractual arrangements including personnel policies and practices."

1. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that the Michigan Legislature, or the Court, create an area-wide authority with certain finance and governance powers, which could be elected on an area-wide basis, consistent with election procedures prepared by the Michigan Legislature, or the Court.

2. In accordance with the above order and the examination of issues contained in this document, it would appear necessary that, if the other means identified in Part III of this document are not available to finance the desegregation plan, and in the event of millage defeat following an area-wide election, for purposes of securing necessary operating millage beyond the 15 mill limitation, the Court take such

steps as are necessary to obtain the necessary revenue to operate the schools in the desegregation area.

3. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that, as of the June 30 preceding the effective date of final desegregation, any district with an operating deficit, or financial obligations to the School Bond Loan Fund be required to establish a property tax levy on their property tax base, to be annually collected until these obligations are discharged, in that district.

4. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that the Court obtain, through appropriate channels, a determination concerning the effect of the Court's order on federal funds, flowing through the state, to the area-wide authority, to ensure that there is no loss in such funds, as a result of the Court's order.

5. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that the Court order the State Board of Education, through the Superintendent of Public Instruction, to review all capital outlay plans, between the effective date of interim desegregation and the effective date of final desegregation, in order to ensure that construction, incompatible with the total desegregation plan, does not occur, consistent with Part II, "I" of the Court order.

6. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that the Court order the transfer of all local school district surpluses, as of the

June 30 preceding final desegregation, to the general fund, debt service fund, and building and site fund of the area-wide authority, and that such districts be credited with these funds in determining their contribution toward the annual area-wide operating millage.

7. In accordance with the above order and the examination of the issues contained in this document and in the event interim arrangements are not continued, it would appear necessary that the Court make provision for municipal governments to assume the responsibility for all public libraries and recreation programs, now the responsibility of local boards. It would also appear necessary for the Court to take steps to place the two community college departments now under the jurisdiction of local school boards under the jurisdiction of an existing or newly created community college governing body, if interim arrangements are not continued.

8. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that the Court order a report on, or before, the March 15 preceding final desegregation, from the local and intermediate boards of education to the area-wide authority, for subsequent transmittal to the Court; such report to provide analyses of the interim arrangements with repsect to governance and personnel and, subsequently, on, or before, the April 15 preceding final desegregation, the area-wide authority should file with the Court analyses of the local and intermediate reports, together with such other observations and recommendations, with respect to interim arrangements, as the area-wide authority may deem appropriate, particularly, with respect to the role, function, and responsibilities of the several legally constituted educational bodies in the desegregation area.

9. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that, the Court not create cluster boards, with governing authority, at this time. Should the Court respond to local board, intermediate board, and area-wide authority analyses of the interim arrangements by recommending creation of cluster districts and cluster boards of education, the State Legislature, or the Court, should create cluster school districts coterminous with the 16 districts described in the Court Order and, as modified by the Court-appointed Panel, and each cluster should be governed by a cluster board of education which would be representative of the constituents being served by the clusters.

10. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that the Court order the local boards of education, in the desegregation area, to create, consistent with the governance discussion, bi-racial advisory committees in each building, in each school district, in the desegregation area.

11. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that the Court create an area-wide complaints council to hear complaints and to make appropriate observations and recommendations to the area-wide authority in response to complaints of students, teachers, administrators, parents and citizens.

12. In accordance with the above order and the examination of the issues contained in this document, and in the event interim arrangements

are not extended, it would appear necessary that the faculty and staffs employed in the desegregation area be employees of a single legally created governing body in order to effectuate necessary aspects of Act 379 of the Public Acts of 1965, the Public Employment Relation Act.

13. In accordance with the above order and the examination of the issues contained in this document, and in the event interim arrangements are not extended, it would appear necessary that the area-wide authority be given the necessary legal status wherein provisions of Act 4 of the Public Acts of 1937, Second Extra Session, the Teacher Tenure Act, can remain in force for all teachers employed by the area-wide authority and further that Act 136 of the Public Acts of 1945, the Public Employees Retirement Act can also continue in force with the appropriate teacher benefits.

14. In accordance with the above order and the examination of the issues contained in this document, and in the event interim arrangements are not extended, it would appear necessary that all existing contractual arrangements of the 53 local boards of education be assumed by the area-wide authority until the termination of such contracts, or the mutual agreement of the parties that such contracts be discontinued prior to termination dates.

15. In accordance with the above order and the examination of the issues contained in this document, it would appear necessary that the area-wide authority be given the responsibility of ensuring the maintenance of uniform standards and procedures in (1) programs of inservice training, (2) personnel practices, (3) affirmative action plans

for hiring minority personnel including black counselors, (4) programs wherein provisions of curricula and extra-curricular activities and codes of conduct are bi-racial and non-discriminatory in nature, and (5) such other responsibility as may be necessary and appropriate to effectuate final desegregation, consistent with the stipulations of the Court Order of June 14, 1972.

Michigan Department of Education
Lansing, Michigan

DATE: June 29, 1972

TO: The Honorable Stephen J. Roth
United States District Court,
Eastern District of Michigan, Southern Division

cc. State Board of Education
Governor William Milliken
Attorney General Frank Kelley
Detroit Board of Education
Detroit Federation of Teachers, Local 231
American Federation of Teachers, AFL-CIO
Defendant-Intervenor
Denise Magdowski, et al., Defendants-Intervenor

FROM: John W. Porter, State Superintendent of Public Instruction

SUBJECT: Progress in Preparing Recommendations for Appropriate Interim and Final Arrangements for the (1) Financial, (2) Administrative and School Governance, and (3) Contractual Arrangements for the Operation of the Schools Within the Desegregation Area

Implications for the Interim Period

Effective implementation of the desegregation plan during the interim period may require the following actions:

1. Amendment of, or a moratorium on, the provisions of Article IX, Section 6, of the Michigan Constitution, which sets a 15 mill limit on the property tax.

2. Amendment of Act 62, Public Acts of 1933, the Property Tax Limitation Act.

3. Amendment of Act 31, Public Acts of 1966, which deals with the assessing and collecting of taxes within a city.

4. Amendment of Act 190, Public Acts of 1962, which deals with adoption of special education millage on an intermediate district basis.

5. Amendment of, or a moratorium on, certain provisions of the School Code of 1955 which deal with the powers and duties of local school districts.

6. Amendment of, or a moratorium on, certain provisions of Act 336, Public Acts of 1947, the Public Employees Relations Act.

7. Amendment of, or a moratorium on, certain provisions of Act 4, Public Acts of 1937, the Teacher Tenure Act.

8. Amendment of Act 36, Public Acts of 1945, the Public School Employees Retirement Act.

9. Amendment of the Rules and Regulations Governing the Certification of Teachers.

10. Amendment of Federal Statutes and Guidelines as embodied in Title I of the Elementary and Secondary Education Act of 1965, which provides approximately $25 million annually to districts in the desegregation area, and is based on concentrations of children from low income families.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs,	)	
vs.	)	
WILLIAM G. MILLIKEN, Defendants,	)	
and	)	
DENISE MAGDOWSKI, Defendants-Intervenors,	)	CIVIL ACTION NO. 35257
and	)	
ALLEN PARK, et al., Defendants-Intervenors,	)	
and	)	
KERRY GREEN, et al., Defendants-Intervenors,	)	
and	)	
WAYNE COUNTY INTERMEDIATE SCHOOL DISTRICT, et al., Added Defendants.	)	

MOTION TO JOIN AND SUBSTITUTES PARTIES

NOW COME plaintiffs, Ronald Bradley, et al., and move this Honorable Court to join the following school districts, the boards of and members of the boards of education of such school districts, and their superintendents as parties in this cause in the first instance for hearings on metropolitan relief and as necessary to further planning and thereafter, insofar as necessary, in implementing an effective plan for desegregation of the Detroit Public Schools:

(a) The Wayne County Intermediate School District, the Oakland County Intermediate School District, Lakeview Public Schools, Fitzgerald Public Schools, Fraser Public Schools, Harper Woods School District, Van Dyke Public Schools, Hamtramck School District, School District of the City of Troy, Highland Park City School District, School Dis-

trict of The City of Birmingham, Bloomfield Hills School District, Farmington Public School District, Clarenceville School District, West Bloomfield School District, Livonia Public School District, South Redford School District, Romulus Township School District, Inkster School District, Westwood Community School District, Ecorse Public School District, Southgate Community School District, Riverview Community School District, Holly Area Schools, Huron Valley Schools, Lake Orion Community School District, Rochester Community School, Walled Lake Consolidated School District, Avondale School District, Clarkston Community Schools, South Lyon Community Schools, Waterford School District, Mt. Clemens Community School District, Anchor Bay School District, Romeo Community Schools, Clintondale Community Schools, L'anse Creuse Public Schools, South Lake Schools, Utica Community Schools, Armada Area Schools, New Haven Community Schools, Plymouth Community Schools District, Huron School District, Northville Public Schools District, Van Buren Public School District, Grosse Ile Township School District, Trenton Public School District;

(b) All other school districts, if any, in the tri-county area not already parties defendant, with the exception of the Pontiac District which is already subject to the jurisdiction of another Federal District Court.

(c) The Boards of Education and Members of the Boards of Education in each school district in the tri-county area;

(d) The Superintendents of each school district in the tri-county area.

Plaintiffs further move this Honorable Court to substitute the following as parties defendant in this cause:

1. Charles Wolfe for Norman [Drachler] as Superintendent of the Detroit Public Schools.

2. The present members of the Detroit Board of Education for their predecessors.

Plaintiffs move that the Court order service to be made by the United States Marshall without payment of service costs. The

joinder of these parties is moved by the plaintiffs in accordance with the directions of the Court of Appeals and the motion is made pursuant to Rules 19 and 21 FRCP. Rule 21 permits joinder on the motion and order of the Court.

Respectfully submitted,

/s/ LOUIS R. LUCAS

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs,	)	
vs.	)	
WILLIAM G. MILLIKEN, Defendants,	)	
and	)	
DENISE MAGDOWSKI, Defendants-Intervenors,	)	CIVIL ACTION
and	)	NO. 35257
ALLEN PARK, et al., Defendants-Intervenors,	)	
and	)	
KERRY GREEN, et al., Defendants-Intervenors,	)	
and	)	
WAYNE COUNTY INTERMEDIATE SCHOOL DISTRICT, et al., Added Defendants.	)	

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO JOIN PARTIES

1. *Bradley* v. *Milliken*, _____F.2d_____, (Nos. 72-1809-72-1814, June 12, 1973, *en banc)* Slip op. at 71.

2. Rules 19 and 21, F.R.C.P.

Respectfully submitted,
/s/ LOUIS R. LUCAS

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al., Plaintiffs,	)	
vs.	)	
WILLIAM G. MILLIKEN, Defendants,	)	
and	)	
DENISE MAGDOWSKI, Defendants-Intervenors,	)	
and	)	
ALLEN PARK, et al., Defendants-Intervenors,	)	CIVIL ACTION No. 35257
and	)	
KERRY GREEN, et al., Defendants-Intervenors,	)	
and	)	
WAYNE COUNTY INTERMEDIATE SCHOOL DISTRICT, et al., Added Defendants.	)	

AMENDED COMPLAINT TO CONFORM TO EVIDENCE AND PRAYER FOR RELIEF

I. Prior Proceedings

1. Pertinent prior proceedings and decisions in this cause in the Court of Appeals are set forth in *Bradley* v. *Milliken*, 433 F.2d 897 (6th Cir. 1970); *Bradley* v. *Milliken*, 438 F.2d 897 (6th Cir. 1971); *Bradley* v. *Milliken*, ____ F.2d ____ (6th Cir. Feb. 23, 1972), *cert. denied*, ___ U.S. ____, 41 U.S.L.W. 3175 (Oct. 10, 1972); *Bradley* v. *Milliken*, ____ F.2d ___ (6th Cir. Dec. 8, 1972) and *Bradley* v. *Milliken*, ___ F.2d ____, (6th Cir. *en banc*, June 12, 1973). The pertinent prior proceedings and decisions in this cause in the District Court are set forth in September 3, 1970 Ruling on Application for Preliminary Injunction, Motion to Inter-

vene, and Motion to Dismiss, *aff'd* in part and *rev'd* in part, 433 F.2d 897; December 3, 1970 Ruling on School Plans submitted, remanded and instructions, 438 F.2d 897; Feb. 16, 1971 Rulings and Order on Class Action and Standing; Ruling on Issue of Segregation, 338 F.Supp. 482 (E.D. Mich. 1971) *aff'd en banc*, ___F.2d ___(June 12, 1973); Findings of Fact and Conclusions of Law on Detroit-Only Plans of Desegregation, ___F.Supp. ___(E.D. Mich. March 28, 1972), *aff'd en banc*, ___F.2d ___(June 12, 1973); Ruling on Propriety of a Metropolitan Remedy to Accomplish Desegregation of the Public Schools of the City of Detroit, ___F. Supp.____, (E.D. Mich. June 12, 1973), *aff'd en banc* in part, and vacated *en banc* as set forth in___ F.2d ___(June 12, 1973); Ruling on Desegregation Area and Development of Plan, Findings of Fact and Conclusions of Law in Support Thereof, __ F. Supp. ___(E.D. Mich. June 14, 1972), vacated *en banc* in part and reinstated *en banc* in part as set forth in ___F.2d ___(June 12, 1973); Order for Acquisition of Transportation, __ F.Supp. ___(E.D. Mich. July 12, 1972), vacated *en banc* as set forth in ___F.2d __(June 12, 1973).

2. The jurisdiction of this Court is invoked under 28 U.S.C. §1331(a), 1343(3) and (4), this being a suit to redress the deprivation under color of Michigan law, statute, regulation, custom and/or usage of rights, privileges and immunities secured by the Thirteenth and Fourteenth Amendments to the Constitution of the United States, and/or by 42 U.S.C. §§1981, 1983, 1988 and 2000d providing for the equal rights of all citizens and persons and for the same rights to the full and equal benefits of all laws and proceedings for the security of persons and property as is enjoyed by white citizens and persons. This is an action for injunctive relief, and for declaratory and other relief pursuant to 28 U.S.C. §§2201, 2202. The matter in controversy exceeds, exclusive of interest and costs, the sum or value of ten-thousand dollars ($10,000.00).

3. The pleadings and evidence already of record in this cause are now and have been on file in the District Court and available for inspection and/or copying by any interested party. Plaintiffs hereby incorporate by reference the entirety of their original Complaint, in this cause, filed August 18, 1970, as though set forth verbatim herein. A copy is attached herewith as Exhibit A.

II. Defendants

4. The original Detroit School District Defendants are the Board of Education of the City of Detroit, its Superintendent (now Charles Wolfe), and the members of the Board of Education.

5. The original State Defendants are Governor William J. Milliken, Attorney General Frank J. Kelley, the Michigan State Board of Education and its Superintendent, John W. Porter.

6. The intervening Detroit defendants are (a) the Detroit Federation of Teachers Local 231, American Federation of Teachers, AFL-CIO and (b) Denise Magdowski, et al.

7. The intervening suburban defendants are Allen Park Public Schools, School District of the City of Berkeley, Brandon Schools, Centerline Public Schools, Cherry Hill School District, Chippewa Valley Public Schools, School District of the City of Clawson, Crestwood School District, Dearborn Public Schools, Dearborn Heights School District No. 7, East Detroit Public Schools, School District of the City of Ferndale, Flat Rock Community Schools, Garden City Public Schools, Gibraltar School District, School District of the City of Hazel Park, Intermediate School District of the County of Macomb, Lake Shore Public Schools, Lakeview Public Schools, The Lamphere Schools, Lincoln Park Public Schools, Madison District Public Schools, Melvindale-North Allen Park School District, School District of North Dearborn Heights, Novi Community School District, Oak Park School District, Oxford Area Community Schools, Redford Union School District No. 1, Richmond Community Schools, School District of the City of River Rouge, Riverview Community School District, Roseville Public Schools, South Lake Schools, Taylor School District, Warren Consolidated Schools, Warren Woods Public Schools, Wayne-Westland Community Schools, Woodhaven School District, Wyandotte Public Schools, Grosse Pointe Schools, Southfield Public Schools, School District of the City of Royal Oak and Kerry Green, et al.

8. The added state defendant is State Treasurer Allison Green.

9. The added suburban defendants are (a) the Wayne County Intermediate School District, the Oakland County Intermediate

School District, Lakeview Public Schools, Fitzgerald Public Schools, Fraser Public Schools, Harper Woods School District, Van Dyke Public Schools, Hamtramck School District, School District of the City of Troy, Highland Park City School District, School District of the City of Birmingham, Bloomfield Hills School District, Farmington Public School District, Clarenceville School District, West Bloomfield School District, Livonia Public School District, South Redford School District, Romulus Township School District, Inkster School District, Westwood Community School District, Ecorse Public School District, Southgate Community School District, Riverview Community School District, Holly Area Schools, Huron Valley Schools, Lake Orion Community School District, Rochester Community School, Walled Lake Consolidated School District, Avondale School District, Clarkston Community Schools, South Lyon Community Schools, Waterford School District, Mt. Clemens Community School District, Anchor Bay School District, Romeo Community Schools, Clintondale Community Schools, L'anse Creuse Public Schools, South Lake Schools, Utica Community Schools, Armada Area Schools, New Haven Community Schools, Plymouth Community School District, Van Buren Public School District, Grosse Ile Township School District, Trenton Public School District; (b) all other school districts, if any, in the tri-county area except the School District of the City of Pontiac; (c) the Boards of Education and Members of the Boards of Education in each school district in the tri-county area except the School District of the City of Pontiac; (d) the Superintendents of each school district in the tri-county area except the School District of the City of Pontiac.

III. Additional Allegations To Conform To The Evidence

10. Various actions by the original Detroit and State defendents and their agents, in some instances supported by or in conjunction with State laws have, wholly apart from any actions of the suburban defendants or any of them, significantly contributed to the containment of black children in racially identifiable, virtually all-black schools operated in the City of Detroit. The pattern of official segregation and containment has been an expanding one, as the black community within Detroit has expanded, but

with the consistent result of establishing and maintaining racially identifiable black Detroit schools surrounded by racially identifiable, virtually all-white schools throughout the tri-county area. These actions have included, but are not limited to, new school construction; discriminatory reimbursement of transportation funds; the validation and reimposition of the boundaries of the Detroit School District, imposition of a segregatory pupil assignment policy for the Detroit Public Schools, creation of segregated school regional boundaries, recision of steps toward desegregation, and the particular carve-out of regional school governance units wholly within the Detroit School District by Act 48 of the Public Acts of 1970; the transfer and/or transportation of students across school districts and within school districts with the purpose and/or effect of official school segregation; limitations on operation of bonding authority; and the operation of state aid and financial limitations, in conjunction with other official actions of segregation which left the Detroit School District virtually bankrupt and further identified it as a black school district. This consistent and repeated discrimination by State officials and agencies, manifested by, among others, the acts listed herein, is causally related in a significant manner to the present, nearly total segregation of black children within the tri-county area in virtually all-black public schools within the jurisdiction of the original Detroit defendants, their agents and successors. In carrying out this pattern and practice of official segregation, the State and its agencies have advantaged themselves of existing school district lines and jurisdictional boundaries with the effect of further entrenching the containment of black students in black Detroit schools; without any reference to any actions of suburban defendants, the prevailing pattern of racially identifiable, virtually all-white schools in the suburbs of Detroit is a result, in part, of the official policies of containment and segregation of black children in racially identifiable and virtually all-black schools within the City of Detroit, as described above.

11. State agencies control the instrumentalities whose presence or cooperation is necessary to remedy the current but expanding pattern of official, substantial racial public school segregation described above. Suburban school districts – like the Detroit School District, and like intermediate, regional and indeed all local school districts – are subordinate governmental entities created

and fashioned by the State. Each is given varying powers to assist in carrying out the State responsibility for education; the size of each varies and the boundaries of each are irregular, little related to the boundaries of other governmental units, and are often crossed by school children or school personnel in order to further various school programs. The present school district boundaries serve no compelling state interest. The State Board of Education has considerable authority and power – including, but not limited to, distribution of funds, accreditation or other approval, and general supervision and responsibility for public education throughout Michigan – at its disposal to assist in planning and implementing any desegregation plan for the Detroit public schools which may extend beyond, or involve districts or schools located without, the present geographic boundaries of the City of Detroit. The State Board and Superintendent have the authority to require the elimination of segregation among and within school districts in Michigan.

12. The Detroit metropolitan area has grown as a series of interrelated and overlapping economic, recreation, service, and governmental units with many persons locating in the suburbs but working and enjoying services in Detroit, and others living in Detroit but working and enjoying services in the suburbs. The school and housing opportunities for black citizens in the Detroit Metropolitan Area, however, have been and remain restricted by discriminatory governmental and private action, to separate and distinct areas within the City and a few other areas of historic racial containment in the metropolitan area.

13. Plans of desegregation limited to the present geographic limits of the City of Detroit will accomplish more actual desegregation than now exists within that school system, but in the context of available alternatives not limited to those geographic boundaries, such plans: (a) will not achieve the effective desegregation of the public schools in Detroit, (b) will not alter the racially identifiably black identity now shared by most Detroit schools, but will rather extend that identity to all Detroit schools. In light of realistic and feasible desegregation measures not limited to Detroit which are capable of being taken *now*, plans of desegregation limited to Detroit do not hold promise of establishing "just

schools" in place of the present "white" and "black" schools in that school system, and such plans consequently will not remedy the constitutional violation which is the subject of this lawsuit nor prevent its recurrence.

14. A far more effective plan of desegregation is constitutionally required; considering the practicalities of the situation, the only feasible and effective plan must involve crossing the boundary lines between the Detroit school district and other school districts in the tri-county area for the limited purpose of effectuating meaningful desegregation.

15. The pupils, teachers, resources and facilities of the following defendant local and intermediate school districts are necessary in this cause for the limited purpose of accomplishing the effective desegregation of the Detroit public schools now and hereafter, including, but not limited to, inclusion in the desegregation area for pupil and staff assignment:

Wayne County Intermediate; Oakland County Intermediate; Macomb County Intermediate; Lake Shore; Roseville City, East Detroit City; South Lake; Grosse Pointe; Lakeview; Centerline; Fitzgerald; Warren Woods; Fraser; Harper Woods; Van Dyke; Warren Consolidated; Hazel Park City; Hamtramck; Lamphere; Madison Heights; City of Troy; Ferndale City; Berkeley City; Highland Park; Royal Oak City; Clawson City; Birmingham; Oak Park City; Southfield; Bloomfield Hills; Farmington; South Redford; North Dearborn Heights; Crestwood; Cherry Hill; Redford Union; Taylor; Dearborn City; Dearborn Heights; Fairlane; Romulus Township; Inkster City; Wayne-Westland Community; Westwood Community; Ecorse; Allen Park; Southgate Community; River Rouge City; Riverview Community; Wyandotte City; Lincoln Park City; Melvindale-North Allen.

16. The pupils, teachers, resources and facilities of the following defendant school districts are necessary for the limited purpose of accomplishing the effective desegregation of the Detroit public schools now and hereafter, including, but not limited to, review of any additions to school building capacity and staff hiring to determine their present or potential effect on the school desegregation plan:

Novi Community; Holly Area; Huron Valley; Lake Orion Community; Oxford Area Community; Rochester Community; Walled Lake Consolidated; Avondale; Brandon Township; Clarkston Community; South Lyon Community; Waterford; Mt. Clemens Community; Anchor Bay; Richmond Community; Romeo Community; Chippewa Valley; Clintondale; L'Anse Creuse; South Lake; Utica Community; Armada Area; New Haven Community; Plymouth Community; Huron; Northville; Van Buren; Flat Rock Community; Gibraltar; Grosse Ile Township; Trenton Public Schools; Woodhaven.

17. Plaintiffs hereby incorporate by reference, as additional allegations to conform to the evidence, the Findings of Fact in Support of Desegregation Area and Development of Plans issued by the District Court June 14, 1972, paragraphs 1 to 91. (These Findings of Fact are attached as Exhibit B.)

WHEREFORE, plaintiffs respectfully pray that the Court order a speedy hearing of this action according to law and the guidelines established by the Sixth Circuit in its Opinion and Order of June 12, 1973, and upon such hearing:

a. Enter a decree to remedy the segregation found including an interim remedy;

b. Enter a decree approving an effective metropolitan plan of desegregation for the Detroit Public Schools which promises realistically to work now and hereafter to maintain a racially unified, non-discriminatory system of public schooling. Such plan should include the utilization of all reasonable and feasible methods and tools of desegregation as set forth in the guidelines established by the Sixth Circuit in its decision *en banc* of June 12, 1973, and the controlling decisions of the Supreme Court; provided, however, pursuant to the decision of the Sixth Circuit, that existing governmental and organizational structures shall, in any case, be maintained to the extent possible, pending a reasonable opportunity for the Michigan Legislature to act to alter same;

c. Enter a decree enjoining defendants to implement no later than the 1974-75 school year and maintain thereafter such an effective metropolitan plan for the desegregation of the Detroit Public Schools;

d. Award to plaintiffs' attorneys reasonable counsel fees for services rendered and to be rendered in, and reimbursement for all out-of-pocket expenses of, this action;

e. Retain continuing jurisdiction of this cause and grant such other and additional relief as may appear to the Court to be equitable and just.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et. al.,	)	
Plaintiffs	)	**CIVIL ACTION**
v.	)	**No. 35257**
WILLIAM G. MILLIKEN, et al.,	)	
Defendants	)	

ORDER

At a session of said court held in the Federal Building, City of Flint, County of Genesee, on this 6th day of SEPTEMBER, A.D. 1973.

PRESENT: HONORABLE STEPHEN J. ROTH
United States District Judge

The above named plaintiffs having moved pursuant to Rules 19 and 21 of the Fed. R. Civ. P. and the directive of the United States Court of Appeals to join as parties defendant certain named school districts, the boards and members of the boards of education of such school districts, and their superintendents, who are not presently named as defendants in the instant action; and

The court having carefully considered the responses and briefs in opposition to the motion and heard oral argument from opposing counsel at hearing on August 15, 1973, and being further fully advised in the premises;

Now then, IT IS ORDERED that plaintiffs' motion to join the following named school districts, the boards and members of the boards of education of such school districts, their superintendents be and the same is hereby GRANTED.

(a) The Wayne County Intermediate School District, the Oakland County Intermediate School District, Fitzgerald Public Schools, Fraser Public Schools, Van Dyke Public Schools, Hamtramck School District, School District of the City of

Troy, Highland Park City School District, School District of the City of Birmingham, Bloomfield Hills School District, Farmington Public School District, Clarenceville School District, West Bloomfield School District, Livonia Public School District, South Redford School District, Romulus Township School District, Inkster School District, Westwood Community School District, Ecorse Public School District, Southgate Community School District, Holly Area Schools, Huron Valley Schools, Lake Orion Community School District, Rochester Community School, Walled Lake Consolidated School District, Avondale School District, Clarkston Community Schools, South Lyon Community Schools, Waterford School District, Mt. Clemens Community School District, Anchor Bay School District, Romeo Community Schools, Clintondale Community Schools, L'anse Creuse Public Schools, Utica Community Schools, Armada Area Schools, New Haven Community Schools, Plymouth Community Schools District, Huron School District, Northville Public Schools District, Van Buren Public School District, Grosse Ile Township School District, Trenton Public School District;

(b) All other school districts, if any in the three counties of Wayne, Oakland and Macomb, not already parties defendant, with the exception of the Pontiac District which is already subject to the jurisdiction of this court; (in a case assigned to Honorable Damon J. Keith, United States District Judge, Eastern District of Michigan);

Service upon the newly joined defendants of a true copy of this order, along with plaintiffs' amended complaint and summons, shall be made by the United States Marshal, the costs of service being borne by the United States;

Plaintiffs' motion to substitute the present members of the Detroit Board of Education and the present Superintendent of the Detroit Public Schools for their predecessors is likewise GRANTED.

DATE: SEPTEMBER 10, 1973.

/s/ STEPHEN J. ROTH
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD BRADLEY, et al.,	)	
Plaintiffs,	)	**CIVIL ACTION**
vs.	)	**No. 35257**
WILLIAM G. MILLIKEN, et al.,	)	
Defendants.	)	

ORDER TO AMEND *NUNC PRO TUNC*

At a session of said Court held in the Federal Building, City of Flint, County of Genesee, on Friday, October 19, 1973.

PRESENT: HONORABLE STEPHEN J. ROTH
United States District Judge

It is ordered that the September 10, 1973 Order of this Court is hereby amended *nunc pro tunc* to add as parties defendant in this cause the Boards of Education, their members and the Superintendents of the Intervening School Districts:

Allen Park Public Schools, School District of the City of Berkley, Brandon Schools, Centerline Public Schools, Cherry Hill School District, Chippewa Valley Public Schools, School District of the City of Clawson, Crestwood School District, Dearborn Public Schools, Dearborn Heights School District No. 7, East Detroit Public Schools, School District of the City of Ferndale, Flat Rock Community Schools, Garden City Public Schools, Gibraltar School District, School District of the City of Harper Woods, School District of the City of Hazel Park, Intermediate School District of the County of Macomb, Lake Shore Public Schools, Lakeview Public Schools, The Lamphere Schools, Lincoln Park Public Schools, Madison District Public Schools, Melvindale-North Allen Park School District, School District of North Dearborn Heights, Novi Community School District, Oak Park School District, Oxford Area Community Schools, Redford Union School District No. 1, Richmond

Community Schools, School District of the City of River Rouge, Riverview Community School District, Roseville Public Schools, South Lake Schools, Taylor School District, Warren Consolidated Schools, Warren Woods Public Schools, Wyandotte Public Schools, Southfield Public Schools, School District of the City of Royal Oak, and the Grosse Pointe Public School System, Wayne-Westland Community Schools, Woodhaven School District.

DATED: October 19, 1973

/s/ STEPHEN J. ROTH
UNITED STATES DISTRICT JUDGE